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THE
History and Law
OF
CHURCH SEATS,
OR
PEWS.

BY
ALFRED HEALES, F.S.A.,
PROCTOR IN DOCTORS' COMMONS.

BOOK II.—LAW.



LONDON:
BUTTERWORTHS, 7, FLEET STREET,
Law Publishers to the Queen's most excellent Majesty.
1872.

LONDON :
PRINTED BY C. ROWORTH AND SONS,
NEWTON STREET, W.C.

INTRODUCTION TO BOOK II.

ORIGINALLY Churches and Chapels in England were altogether unprovided with seats for the Congregation. In the Chancel there were seats for the Clergy and others taking part in the performance of Divine Service; and especially in the Churches of Conventual and Collegiate bodies (for whom extremely long, as well as frequent Services were appointed), stalls were provided as a matter of necessity.

To Monarchs and Persons of high position, and Patrons of Churches, seats were permitted by authority, and from an early period such seats were in the Chancel.

Gradually seats for the Congregation at large, were introduced into the body of the Church; and it has been our endeavour to trace their Early History in BOOK I. of the present Work.

There is no Ecclesiastical or Civil Law under which such seats were introduced, nor is there any by which their use is regulated, except such as in course of time has grown up; and since it is found that different considerations affect different classes of buildings, this part of our Work has been divided accordingly.

Cathedrals stand alone. Scarcely any claims to, or legal questions respecting the seats in them have ever been raised. This branch of the subject forms PART A.

The bulk of the Work is necessarily occupied by the considerations respecting the seats in Parish Churches, amounting in number to many thousands, scattered throughout the length and breadth of the land; their dependant Chapels of Ease are ruled by nearly like considerations. This portion of the subject forms PART B., and comprises three DIVISIONS; **a.** Ordinary Seats, **b.** the Parson's Seat, and **c.** Private Seats.

Of these DIVISIONS, **a.** Ordinary Seats, is separated into two Chapters: Chapter I. treats of the Structure, and comprises the consideration of the introduction, building, repair, and removal of such seats: and Chapter II. of their Use and Occupation, whether in common or by a personal allotment by the authority of the Ordinary, either directly or indirectly; and the rights acquired thereby. Since the period in which the Law affecting this part of the subject gradually grew up, there has, especially of late, been a very great change in the circumstances; so that what might at one time have been proper, may be now inconvenient or objectionable, and some modification or reform will, no doubt, sooner or later be found desirable. The Act for the Abolition of Compulsory Church Rates will produce an effect tending in that direction. It is not within the scope of the present Work to consider the advantages and disadvantages of the present system. The Parson's Seat being subject to different considerations forms DIVISION **b.**

DIVISION **c.** is separated into two Chapters, of which Chapter I. treats of Seats held, or claimed to be held, under *Faculties* granted by the Ordinary to individuals and their

families or successors. The nature of Faculties, and their legal force, and the considerations which should guide the discretion of the Ordinary in making such grants, are comprised herein. The increasing inconveniences arising from such grants have been repeatedly noticed judicially, and no doubt, sooner or later, will lead to the abandonment of the system. Chapter II. treats of rights by *Prescription*; they arise from two separate sources, which have, however, not always in Law been kept so distinct as might have been desirable. The one is where a founder of a church, or other person, retained to himself, or built a specific part of the church, for his own use and that of his family and successors: and as such fact is not very frequently capable of absolute proof, it may (subject to certain requirements) be legally presumed to have been the case. The other is where, in default of any better title than use, it is presumed that such use commenced and continues under the authority of a Faculty, granted by the Ordinary, but no longer in existence. Under the head of *Prescription* are comprised the facts necessary to make a valid claim, what proof is requisite, where such questions are triable, and the ownership of the materials of the structure.

Next for consideration is PART C., which treats of—
a. Seats in Private Chapels and unconsecrated Buildings used for Divine Service; but respecting them very few legal points have been decided:—and **b.** Proprietary Chapels, a modern class of Building in which the use and control of the Seats differ little from that of places of Public Entertainment.

The remainder of the work, PART D., relates to the seats in Churches built under the authority of Acts of Parliament passed, at a modern date, with the object of relieving Spiritual Destitution, which in the course of time had risen to an alarming height. Special necessities require special treatment; but it often happens that what is introduced as a temporary measure, permanently remains. DIVISION **a.** relates to General Church-Building Acts, and **b.** to Churches built under Private Acts.

LIST OF AUTHORITIES REFERRED TO IN BOOK II.

ACTS OF PARLIAMENT.

21 Edward III. part	7	3 & 4 Victoria cap.	86
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ADDAMS, Eccles. Rep.	BROOKE, Abridgement.
ADOLPHUS & ELLIS, K. B. Rep.	BROWNLOW & GOLDESBOROUGH, Common Pleas Rep.
AYLIFFE, Parergon.	BULSTRODE, King's Bench Rep.
BACON, Abridgement.	BUNBURY, Exchequer Rep.
BARNEWALL & ADOLPHUS, King's Bench Rep.	BURN, Ecclesiastical Law.
BARNEWALL & ALDERSON, King's Bench Rep.	BURROWS, King's Bench Rep.
BARNEWALL & CRESSWELL, King's Bench Rep.	BURTON, Real Property.
BINGHAM, Common Pleas Rep.	CAMPBELL, Nisi Prius Rep.
BLACKSTONE, Commentaries.	CARRINGTON & PAYNE, N. P. Rep.
BOSWORTH, Anglo-Saxon Dic.	COKE, Institutes.
	COKE, King's Bench Rep.

COKE upon Littleton.	LAW REPORTS,
COLLIER, Ecclesiastical History.	Admiralty and Eccles.,
COMMISSION on Ecc. Courts Rep.	Common Pleas.
COMMON BENCH, 2 Jac.	Equity,
COMYN, Digest.	Exchequer,
COMYN, King's Bench Rep.	LAW TIMES REPORTS, New Series.
COWPER, King's Bench Rep.	LEE, Eccles. Rep.
CROKE, King's Bench Rep.	LEVINZ, King's Bench Rep.
CROMPTON, MEESON & ROSCOE,	LITTLETON, Common Pleas Rep.
Exchequer Rep.	LUSHINGTON, MS. opinion.
CURTEIS, Ecclesiastical Rep.	LUTWYCHE, Common Pleas Rep.
DEGGE, Parson's Counsellor.	MANNING & RYLAND, K. B. Rep.
DOUGLAS, King's Bench Rep.	MEESON & WELSBY, Exch. Rep.
DOWLAND & RYLAND, K. B. Rep.	MODERN, King's Bench Rep.
DOWLING, Practice Cases.	MOODY & ROBINSON, N. P. Rep.
EAST, King's Bench Rep.	MOOR, King's Bench Rep.
EXPOSITION of Termes of Lawe.	MOORE, Privy Council Rep.
FITZHERRBERT, Natura Brevium.	NEVILLE & MANNING, K. B. Rep.
FORREST, Exchequer Rep.	NEVILLE & PERRY, K. B. Rep.
FORTESCUE, King's Bench Rep.	NOY, King's Bench Rep.
FRANCES, De Cathedralibus.	OLIPHANT on Pews.
GALE & DAVISON, K. B. Rep.	OUGHTON, Ordo Judiciorum.
GIBSON, Codex.	PALMER, King's Bench Rep.
GODBOLT, King's Bench Rep.	PHILLIMORE, Eccles. Rep.
HAGGARD, Consistory Rep.	PHILLIMORE, SIR R. J. (unpub.)
HAGGARD, Eccles. Rep.	POPHAM, King's Bench Rep.
HARRISON & WOLLASTON, Com-	PRIDEAUX, Guide to Church-
mon Pleas Rep.	wardens.
HETLEY, Common Pleas Rep.	QUEEN'S BENCH, Rep.
HOBART, King's Bench Rep.	RAYMOND, LORD, K. B. Rep.
JOHNSON, Canons.	RAYMOND, SIR THOS., K. B. Rep.
JOHNSON, Clergyman's Vade me-	REFORMATIO LEGUM ECCLES.
cum.	REPORT on Ecclesiastical Courts.
JONES, T., King's Bench Rep.	REPORT on Spiritual Destitution.
JURIST, New Series.	ROBERTSON, Ecclesiastical Rep.
KEBLE, King's Bench Rep.	ROGERS, Ecclesiastical Law.
KENNEDY, Parochial Hist. of Am-	ROLLE, Abridgement.
brosden.	ROLLE, King's Bench Rep.
KENYON (LORD), K. B. Cases.	SALKELD, King's Bench Rep.
LATCH, King's Bench Rep.	SHELFORD, Real Property.
LATHBURY, Ed. of Collier's Eccles.	SIDERFIN, King's Bench Rep.
History.	SIMONS, N. S., Vice Chanc. Rep.
LAW JOURNAL REPORTS, New	SOLICITOR'S JOURNAL.
Series, Queen's Bench.	SPELMAN, Concilia.

STEPHEN, Commentaries.	WEEKLY REPORTER.
SWABEY, MS. opinion.	WILKINS, Concilia.
TAYLOR, on Evidence.	WILLIAMS, PEEBE, Chancery Rep.
TERM REPORTS, King's Bench.	WILSON, King's Bench Rep.
TYRWHIT, Ed. of Prideaux.	WINCH, Common Pleas Rep.
VERNON, Chancery Rep.	WOOD, Institute.
VESEY, Chancery Rep.	WORCESTER ECCLES. REGR., Bul-
VICAR-GENERAL'S BOOKS (un-	lingham.
pub.)	YEAR Book, 32 Edward I.
VINER, Abridgement.	9 Edward IV.
WATSON, Clergy Law.	8 Henry VII.
	YOUNGE & JERVIS, Exch. Rep.

ERRATA IN BOOK II.

Page 28, note (g).—Sieveking *v.* Evans & K.; should be, Sieveking & Evans *v.* Kingsford.

„ 38, „ (s).—Anon. p. 12; *Mod.* p. 401; should be, Anon., 12 *Mod.* p. 401.

„ 68, „ (a).—Reference to Comyn's *Digest*, N. 6, should be N. 116.

BOOK II.—LAW.

PLAN OF THE WORK.

The History and Law
OF
CHURCH SEATS, OR PEWS.

BOOK II.—LAW.

PART A.

CATHEDRALS.

PART A.
CATHEDRALS.

1. A CATHEDRAL is the parish church of the whole diocese, because it is the church of the bishop, who has the cure of souls of the whole diocese; and though all of the diocese may receive the Sacrament or be married there, they are not bound to do so (*a*), nor are they liable for its repair, except in cases where all other funds fail. They have not, therefore, in a cathedral any parochial rights.

Cathedral is parish church of the diocese; but its use confers no parochial rights.

2. As to the seats in a cathedral, Dr. Todd, the Vicar-General of the diocese of Derry, said he could find nothing in the books of our law on the subject; but he referred to the work of Frances, *De Cathedralibus*, which, speaking of the nave of the cathedral, to which alone the laity should properly be limited, says to the effect that if there should be there any forms or benches for the laity, and it be

Seats in cathedral regulated by bishop; but objectionable.

(*a*) Frances, *De Cathedralibus*, p. 345.



PART A.
CATHEDRALS.

Seats are only
ex gratiâ.

Ought not to
be allotted;

but probably
allotment by
bishop not
questionable.

If parochial as
well as cath-
edral, parochial
arrangements
follow.

On transfer of
parochial
rights from
cathedral to
new church,
claims for seats
to be examined.

necessary to regulate them, the regulation of them belongs to the bishop; but seats ought not to be permitted (*b*).

3. The laity can possess no right to seats or benches, which are only permitted, *ex gratiâ*, to be introduced (*c*).

4. It would appear, then, to be the law that seats in the nave of a cathedral ought not to be allocated at all, and that the nave should be free for all persons of the diocese; at all events, the inhabitants of the parish in which the cathedral is placed have no special rights in the cathedral, and if the bishop were to allocate a pew in a cathedral to any person in the diocese, it is probable that no one would have a right to question it (*d*).

5. When a church is parochial as well as cathedral (*i. e.* from its origin), the distribution of seats must be ordered, as in ordinary parish churches, by the churchwardens, but subject to the control of the ordinary. Non-parishioners have no rights therein (*e*).

6. Where any part of any cathedral has been accustomed to be used as a parochial church, the Church Building Commissioners, with consent of Ecclesiastical Commissioners (*f*), the bishop, dean and chapter, patron and incumbent, may transfer the rights, &c. to any new church in the parish of which that part of the cathedral had been held to be the parish church; and an examination into claims to seats by faculty or prescription, and an assignment to successful claimants is to take place in like manner as where the rights of an old parish church are transferred to a new building (*g*).

(*b*) Derry Cathedral, *Law T. Rep.*, 8 N. S. p. 863.

(*c*) Frances, *De Cath.*, p. 79.

(*d*) Derry Cathedral, *Law T. Rep.*, 8 N. S. p. 864.

(*e*) *Ibid.*

(*f*) The two bodies of Commissioners have been amalgamated by act of parliament, 19 & 20 Vict. c. 55.

(*g*) 8 & 9 Vict. c. 70, ss. 4 & 1 (1845).

PART B.

PARISH CHURCHES AND CHAPELS OF EASE.

DIVISION a.

ORDINARY SEATS.

CHAPTER I.

STRUCTURE.

CAP. I.
STRUCTURE.

7. SOON after the conversion of the English Saxons there were several churches erected in the respective dioceses, to which the converts who lived remote from the cathedral repaired and made their offerings; but these were nearly equivalent to chapels of ease, and it is evident that the clergy were not fixed upon any parochial possessions, and as yet there was no such thing as fixed cures or tithes (*a*).

Earliest English churches like chapels of ease.

8. Now as kings founded cathedrals for the benefit of their whole dominions, so afterwards great men founded parochial churches for the convenience of themselves and their dependants, and churches and chapels were erected and a maintenance settled for the incumbent, the bounds of the parochial division being commonly the same with those of the founder's jurisdiction, or conterminous with a manor. Some foundations of this nature were as early as

Foundation of parish churches and parishes, very early.

(*a*) Collier's *Eccl. Hist. of Gt. Brit.*, Vol. I. p. 229; and Lathbury's Ed., Vol. I. p. 539 et seq.

CAP. I.
STRUCTURE.

Bishop had power over church, clergy, and revenues.

Endowment required.

Parishes settled prior to Norman conquest.

Rights and duties of parishioners acquired by custom.

Originally no seats in nave and aisles of churches.

the time of Justinian the Emperor; they are likewise mentioned by Bede about A.D. 700 (*b*).

9. Not only was the bishop's consecration of these rural churches to precede their use, but his consent was likewise necessary to their erection. His approbation of the priest who was to officiate was necessary; and, as he could not be admitted, so neither could he be ejected without the consent of the diocesan. The bishop's power went still further, and extended to the revenues, tithes and oblations with which they were endowed (*c*).

10. None of the auxiliary churches were allowed to be built before the settlement of a sufficient endowment for the maintenance of a priest. The endowments of those times consisted generally in a certain portion of land, in slaves to till the glebe, and in oblations made by the tenants within the precincts of the parish (*c*).

11. Thus in process of time the country became portioned out and existing parishes were subdivided. Before the reign of King Edward the Confessor the parochial divisions were so far advanced that every person might be traced to the parish to which he belonged; and the distinction of parishes, as they now stand, appears to have been settled before the Norman conquest (*c*).

12. By custom, the inhabitants of a parish acquired the right to attend the church and avail themselves of the spiritual advantages which had been thus provided for the parish; and, at the same time, the duty of keeping the building in repair and providing the necessaries for Divine service devolved and became a legal obligation upon them.

13. From the entire absence of mention by any early writers of seats for the congregation in church, or any representation of them in ancient paintings and illumina-

(*b*) Collier's *Ecol. Hist. of Gt. Brit.*, Vol. I. p. 229; and Lathbury's Ed., Vol. I. p. 539 et seq.

(*c*) Collier's *Ecol. Hist. of Gt. Brit.*, Vol. I. pp. 230 & 231.

tions or any existing early example, there can be no doubt that there were formerly none such existing in that part of the building which was intended for the congregation (viz., the nave and aisles) for many centuries from the establishment of the Christian religion, and in fact until near the fifteenth century. The earlier records of them are more particularly referred to in Book I. of the present work.

CAP. I.
STRUCTURE.

Originally no
seats in nave
and aisles of
churches.

14. When introduced they for some time were, with the exception of some held by prescription, merely stools or moveable seats. They are distinctly mentioned as moveable in the earliest case (1493) in which the subject appears in any legal proceedings. William Fitzwalter sued on a writ of trespass, for that the defendant had, with force and arms, broken and carried away his seat in the church. The court said that unless a man and his ancestors had been accustomed to have a fixed seat from time of prescription, it seemed that any one might remove the seat for his own ease and standing, for it was a common nuisance to all, because it hindered them from their standing (*d*). The court also said that it was a novel matter, and the judgment would serve as a precedent for all others.

Moveable seats
at first intro-
duced.

Case in 1493.

15. Degge (*e*) says that "if the seat be loose he that built it may remove it at his pleasure, as I conceive."

Loose seats re-
movable by
owner.

16. Prideaux says rather singularly that the first seats permitted to be used were moveable forms, for the ease of the parishioners to sit during those parts of the service for which kneeling or standing were directed by the ritual of the times (*f*).

For the ease
of the pa-
rishioners.

(*d*) *Year Book*, 8 Hen. VII., 12. Issint, s'il & ses auncestres n'ont us dast tel sedule là de temps de prescription, semble que chescun home purra prender le sedule que est del esglise & ceo remove pur son ease & standing ; car c'est al commen nusans de eux, car ils ne purront avoir lour standing pur tielx sedules, s. setes en el esglise.

(*e*) Degge's *Parson's Counsellor*, p. 210 (Pt. I. cap. 12).

(*f*) Tyrr. Prid., p. 115.

CAP. I.
STRUCTURE.

Moveable seats said to have been the property of the incumbent.

But all proof wanting:
Therefore very doubtful.

Early fixed seats probably erected without authority.

17. It is stated by Kennett that these moveable seats were the property of the incumbent, and in all respects at his disposal; and they were frequently bequeathed by incumbents to their successors, or others as they thought fit (*g*).

18. And this statement has been followed by all subsequent writers without reference to a single other authority in corroboration. The writer of the present Work has not discovered any such authority or bequest. It seems highly improbable, from the reference in the case of Fitzwalter (above mentioned) to the novelty of the question, and private seats being then declared a nuisance to the rest of the parishioners, that the clergy would have been permitted to maintain them; nor, indeed, is it apparent what object they could have in wishing to do so. The examples stated by Kennett to occur in Wills of incumbents, may have been for clerical use in the chancel, as it is probable that many chancels were altogether destitute of, or inadequately provided with stalls.

19. Whether, at an early period, pews or fixed seats were put up with or without any authority, probably can never be ascertained with certainty, but the absence of early record of any such authority furnishes an exceedingly strong presumption that they did not possess it until a comparatively recent date. It would appear that as the ordinary has always possessed control over the church and matters connected with it, he naturally claimed authority over the seats when the subject was brought before him (*h*); and the Courts of Common Law have always acknowledged questions respecting seats to belong

(*g*) Kennett's *Paroch. Antig. of Ambrosden*, p. 596.

(*h*) As in the Canons and Constitutions from the 13th century down-

CAP. I.
STRUCTURE.

exclusively to ecclesiastical jurisdiction, except in such cases as involved a Common Law right by prescription.

A faculty is legally necessary, but not always obtained.

20. The necessity of obtaining from the ordinary his licence or faculty for all matters affecting the structure of a church or in its fittings or arrangements, before any alterations can legally be made, is now generally admitted, though perhaps the same strictness was not always observed: the erection or alteration of arrangement of seats is one of such matters.

21. If the churchwardens erect or add new seats, they should have the consent of the parishioners, and a licence from the ordinary, although this is not required for occasional repairs (*i*).

Nor necessary for occasional repairs.

22. It is not to be maintained that every little alteration of a pew, where no private rights are infringed, requires a faculty, particularly where such alteration is for the accommodation of the parish (*j*).

Nor for trifling alterations.

23. Thus where an alteration was made with the concurrence of the churchwardens, and without any objection having been made by the parish, and the alteration was no disfigurement to the church, it was held that a faculty was not necessary (*k*). But the private assent of the bishop should always be obtained.

Nor in all cases.

24. Even for the exchange of a handsome new chalice for an old and poor one, the bishop's faculty should, in strictness, be obtained; though, practically, if the rector and vestry concur, such an authorization may be dispensed with.

But in strictness, even in small matters.

wards, given in Wilkin's *Concilia* and Spelman's *Concilia*; more particularly referred to in Book I. of this work.

(*i*) 2 *Inst.* p. 439; and in modern times, Parham *v.* Templar, 3 *Phill.* p. 527.

(*j*) Parham *v.* Templar, 3 *Phill.* p. 527.

(*k*) *Ibid.* p. 528.

**CAP. I.
STRUCTURE.**

Formerly doubted where no dispute; even for erection of new pews.

So in Johnson's opinion, but without authority.

If with sanction of bishop or archdeacon faculty might be perhaps dispensed with.

Clergyman must not alter without authority.

Mode of proceeding to obtain a faculty for erecting seats.

25. Though, formerly, doubt has been raised whether, where there is no dispute, the sanction of the ordinary is necessary. And it has been said, that if the incumbent, churchwardens and parishioners unanimously agree that more pews are necessary, and that they be fixed in such a place, it does not seem that there is any necessity for the ordinary's interposition (*l*).

26. Johnson (*m*), especially, adds that he can see no occasion for the ordinary's concerning himself in the case; for what need is there of a judge where there is no controversy? But, perhaps, Johnson's opinion when unfortified by authority must not receive too much weight.

27. And in a recent case the court said, it was most desirable that nothing should be done (in the way of alterations) by a clergyman in his church, without in the first instance obtaining the necessary legal sanction. If the private sanction of the bishop or archdeacon had been obtained prior to the alterations being made, the court might not have been disposed to insist upon a faculty being taken out; but a clergyman had no right whatever to make alterations on his own responsibility (*n*). In this case the alteration of seats occurred in the chancel, and therefore, probably, the concurrence of the churchwardens and parishioners was not alluded to.

28. The mode of proceeding is by a Decree citing the churchwardens and inhabitants generally of the parish, to show cause why a faculty should not be granted (*o*), and with an Intimation that in default of their not appearing,

(*l*) *Ayl. Parerg.*, p. 484.

(*m*) Johnson's *Clergy. Va. Me.*, Vol. I. p. 173.

(*n*) Sieveking & E. v. Kingsford, 15 *Law T. Rep.* p. 302, and *Law J. Rep.*, 36 N. S. p. 3.

(*o*) Wilkinson v. Moss, 2 *Lee*, p. 259; *Ayl. Parerg.*, p. 485.

or show good and sufficient cause to the contrary, the matter will be proceeded with in their absence.

29. In the event of there being any adverse appearance, Form of suit. the promovent has the choice of proceeding, either by *Plea and Proof*, or by *Summary Petition*; but the latter is the more convenient form (*p*).

30. The court, however, is not obliged to grant a faculty in the terms of the intimation, but would grant it in terms agreeable to the law. Therefore, upon it being objected that in a Decree with Intimation, founding an application for faculty, there had been no limitation to the duration of the grant to the residence of the applicant in the parish, the court held that the objection was not good; but at the same time directed that in future the Intimation should run, to appropriate a pew to the applicant and his family while as continuing inhabitants of the parish (*q*). Bishop not bound by the terms of original prayer or intimation.

31. It is usual to exhibit a minute of vestry concurring in the objects for which the faculty is desired to be obtained; but the court, in the exercise of its right of granting or withholding faculties, holds itself unfettered by the wishes of the majority of the parishioners in vestry: it may refuse the prayer of the whole parish joined together, or may grant, if it appears necessary, a prayer on the application of one against the rest (*r*). Vestry minute usually produced; but court is unfettered.

32. But great attention will be paid to the wishes of the majority. The parishioners are, in the first instance, the best judges of the inconvenience and its remedies, and the court will not lightly presume that a majority would authorize or willingly incur an unnecessary expense (*s*). Attention is paid to wishes of parish.

(*p*) Knapp *v.* Nicholl, 2 *Rob. Eccl. R.* p. 365.

(*q*) Partington *v.* Rect. of Barnes, 2 *Lee*, p. 354.

(*r*) Groves *v.* Rector of Hornsey, 1 *Hagg. C. R.* p. 189; Evans *v.* Slack & Others, *Law J. Rep.*, 38 *N. S., Eccl.* p. 39.

(*s*) *Ibid.*

CAP. I.
STRUCTURE.

Disapproba-
tion of ma-
jority of
inhabitants is
not conclusive.

Discretion of
the court is
free.

Court considers
whether pro-
posed altera-
tion is for
practical
benefit.

If advanta-
geous, and with-
out cost to
parish, should
be granted.

33. The disapprobation of even a great majority of the inhabitants is not conclusive against any proposed plan; for although it is a fact to which the Ecclesiastical Court pays great attention, it is certainly not the only circumstance to be considered; for the majority may incline to unnecessary expense, against which the court ought to protect the minority, or it may object to necessary expense (*t*).

34. It is clear that the discretion of the court is free. The contrary doctrine would lead to monstrous consequences. As for example, supposing a church to be in a mean, shabby, and sordid condition, and yet secure from the actual inclemencies of the weather, and not in a condition in which the law would compel the parishioners to incur any expense respecting it, and some munificent person offered to put it in a decent and comely plight, but was opposed by the vestry; the court could not be bound to refuse its consent (*t*).

35. The principle which the court has (so far as private interests will permit it to do so) to consider in the exercise of its discretion is, whether an alteration proposed is really for the practical benefit of the church and of the parishioners.

36. Where the enlargement of the church will add to its means of accommodation, to its beauty, and to the decency of the service, and will not cost the parishioners a farthing, the court cannot conscientiously do otherwise than grant a faculty for the purpose as prayed, although the churchwardens and vestry were unanimous in opposing it (*u*).

(*t*) *Groves v. Rect. of Hornsey*, 1 *Hagg. C. R.* p. 189; *Evans v. Slack & Ors.*, *Law J. Rep.*, 38 N. S., *Ecccl.* p. 39.

(*u*) *Harrison v. Swayne & Swayne* (by Sir Rob. J. Phillimore), unpubl.

37. The circumstance that no part of the expenses of a proposed improvement of a church will be defrayed by the parish, but that the whole will be defrayed by the rector who petitions for a faculty for the purpose of such improvement, has a most material bearing upon the law as to the effect of the opinion and wishes of the parishioners upon the discretion of the ordinary (*v*).

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No part of ex-penses charged against the parish very material.

38. It would appear that a faculty might be granted for reseating at the instance of an individual and at his expense, supposing that the sittings were dilapidated, and taking into account that the vestry are no longer able to levy a compulsory rate for their repair; and even in opposition to the wishes of the parish by the churchwardens and vestry. Such an application was made by the rector; but he failed to prove an existing inconvenience, or that (as he alleged) many parishioners were deterred thereby from attending divine service, though some sittings might be actually uncomfortable; the application was dismissed by the Consistory Court of London (*w*).

Faculty might be granted to individual offering to pay expenses; even in opposition to the parish.

39. In the event of works being already done without authority, a faculty should be obtained to confirm such works.

Works without authority may be confirmed by faculty.

40. In a case of this kind, upon a doubt being raised as to the legal constitution of the vestry at which the work was ordered, the court held that that point was unimportant if the alterations themselves were proper and such as the ordinary ought to approve (*x*).

Legality of vestry meeting is unimportant.

41. The first point to which the court looks is, whether the disapprobation of the parish, on which the objection is

Wishes of parish ascertained through the vestry.

(*v*) *Harrison v. Swayne & Swayne* (by Sir Rob. J. Phillimore), unpubl.

(*w*) *Evans v. Slack & Others*, *Law J. Rep.*, 38 N. S., *Ecccl.* p. 41.

(*x*) *Thomas & Hughes v. Morris*, 1 *Add.* p. 472.

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founded, is capable of being duly ascertained by the resolution of the vestry, or by the opinions or sentiments of others, who being prevented from attending there, have joined in the proceedings in the cause (*x*).

**Notice of
vestry need not
be special.**

42. If it can be shown that due notice of vestry was given, persons who did not choose to attend are not to plead ignorance, even if the notice was *general* and for *parochial purposes* only; but still more so, if *particular*, and the vestry was called for the object in question (*y*).

**Majority
obtained by
canvass still
admissible.**

43. Where a majority of parishioners is in favour of erecting a gallery, this inference as to their wishes is not impeached by saying that it was an approbation obtained by personal canvass, and that one of those who formed the majority was active in the procurement of it, since, in all public business, some one individual must take the lead (*z*).

**No objection if
done fairly.**

44. If, indeed, he does it corruptly—if he intimidates or bribes his fellow-parishioners, that may impeach a measure which has been effected by such means; but if he obtains a majority fairly by interference, the degree of activity and zeal which might have been used for that purpose will not affect the validity of the measure (*a*).

**Attendance of
strangers at
committee
does not neces-
sarily vitiate
its acts.**

45. It was made an objection on the application for a faculty to build a gallery, that the meeting of the committee was attended by others who did not belong to it. It appeared that there were nine members present, of whom five were parish officers who, by custom, as was extremely proper, were standing members of all committees. It was

(*x*) Evans *v.* Slack & S., *Law J. Rep.*, 38 N. S., *Eccl.* p. 39; Groves *v.* Rector of Hornsey, 1 *Hagg. C. R.*, p. 190.

(*y*) *Ibid.* p. 191.

(*z*) *Ibid.* p. 193.

(*a*) *Ibid.* p. 193.

held that if it appeared that the other persons who attended had controlled the proceedings by a fair majority, it would have vitiated the application; but it being proved that the resolution for a gallery was unanimous, their attendance was therefore of no consequence (*b*).

46. A faculty for the erection of a gallery in a church, notwithstanding the opposition of the vicar, was granted by the Consistory Court of Gloucester. The sentence was appealed against to the Court of Arches, and the decree of the Chancellor of Gloucester confirmed (*c*).

47. The incumbent, however, may properly object to a plan which is generally inconvenient; which diminishes the accommodation in the church; which disfigures the building; which renders it dark and incommodious. In any case of this description, it is very proper he should make a representation to the Ordinary (*d*).

48. At a visitation the vicar made a presentment that new pews were wanted, and that he and the churchwardens had formed a plan for regulating the seats; but that the vestry had negatived it; that a gallery which had been used by the Sunday School had been pulled down, which he desired might be re-erected; and he concluded by stating, that if the leading parishioners who wanted seats would bring forward any plan equally commodious with that which he suggested and which would not be likely to disfigure the church, he would readily concur with them (*e*).

49. The vestry then agreed upon a plan for erecting a new gallery, applied to the ordinary for his faculty; and the only person who opposed it was the vicar (*f*).

Vicar's opposition to faculty for gallery overruled.

But he may sometimes properly oppose such a faculty.

Vicar may present the requirement for additional seats.

(*b*) *Groves v. Rector of Hornsey*, 1 *Hagg. C. R.* p. 191.

(*c*) *Tattersall v. Knight*, 1 *Phill.* p. 287.

(*d*) *Ibid.* p. 233.

(*e*) *Ibid.* p. 232.

(*f*) *Ibid.* p. 234.

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Reasons upon
which faculty
was granted.

In spite of
vicar.

Application by
rector, opposed
by parish, may
be granted.

Convenience
and comfort,
and gain of
seats consi-
dered.

Faculty re-
fused for in-
sufficient proof.

Fact of seats
being dilapi-
dated has
much weight.

50. The applicants proposed the erection of a gallery, which would be no detriment or inconvenience, but, on the contrary, ornamental; and alleged that five of the principal inhabitants, in consideration of having the front seats allotted to them (which the vestry agreed to) undertook to erect the seats for themselves, while the two rows behind were to be at parish expense and for the general accommodation of the inhabitants (*g*).

51. Upon this representation, and in spite of various objections by the vicar, the faculty was granted by the Consistory Court of Gloucester and confirmed by the Arches Court on appeal (*g*).

52. On the other hand it would appear that the application by a rector to reseat the church and refit the chancel without expense to the parish, though opposed by the churchwardens acting under the authority of vestry, might under some circumstances be granted (*h*).

53. The rector alleged that the present seats were inconveniently arranged; that the proposed alterations were for the comfort and convenience of those persons who attended the church; and that additional seats would be provided (*h*).

54. The churchwardens denied the two former statements and alleged that no more seats were wanted. The court considered that there was a failure of proof of the rector's statements, and there was not sufficient ground to overrule the opposition of the parish (*h*).

55. If it had appeared that the present sittings were dilapidated, that fact would have had great weight, especially since there was no longer power to levy compulsory church rates, and the court would listen with greater

(*g*) *Tattersall v. Knight*, 1 *Phill.*, p. 232 et seq.

(*h*) *Evans v. Slack & S.*, *Law J. Rep.*, 38 *N. S.*, *Eccol.* p. 41.

readiness than heretofore to any proposal on the part of an individual to improve the architecture or fittings at his own expense; and the consent of the parishioners would not have the weight it formerly had (*i*).

56. The fact of a plan for re-pewing being approved by the bishop and patrons, the expenses being offered to be paid by subscription; and additional accommodation being afforded to the parishioners, who stood in need of it, are reasons which, ordinarily, would strongly incline the court to grant a faculty for the purpose (*k*).

57. A plan of the proposed new pews should be prepared, clearly showing the situation and size of the pews to be substituted for those already appropriated by faculty or prescription; and should be annexed to the faculty for repairing (*l*).

58. But if the plan be approved by the vestry it is not necessary that it should be annexed to the process (apparently meaning, the Decree with Intimation) (*m*).

59. It being clearly shown that some addition is necessary, the only question for the court is, whether the proposed method is expedient; not whether it be the *most* expedient, as the faculty can regularly be only for the plan proposed (*n*).

60. And it is no objection to it, that other and better means might have been devised for the purpose, if evidence as to those plans being better has not been regularly brought before the court (*o*).

61. In all cases where any dispute may arise, the ordinary is sole judge of

(*i*) *Evans v. Slack & S.*, *Law J. Rep.*, 38 N. S., *Eccl.* p. 41.

(*k*) *Knapp & others v. Nicholl*, 2 *Robertson's Eccl. Rep.* p. 366.

(*l*) *Parham v. Templar*, 3 *Phill.* p. 515.

(*m*) *Tattersall v. Knight*, 1 *Phill.* p. 236.

(*n*) *Groves v. Rector of Hornsey*, 1 *Hagg. C. R.* p. 195.

(*o*) *Ibid.*

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number and
place of seats.

Reasons affect-
ing discretion
of court.

Danger to the
fabric. Where
doubtful,
weight given
to opinion of
parish.

Darkening the
pews.

Hindrance to
divine service,
or any ob-
struction.

nary is sole judge whether more pews are necessary, and where they are to be placed (*p*).

62. There are various reasons which would hinder the court, in its discretion, from granting a faculty; especially if the proposed alteration would be likely to injure the building, or impede the light, or if it would be an obstruction or disfigure the building (*q*).

63. A faculty for a gallery was opposed on the ground of danger to the fabric of the church, which was one of considerable antiquity, and apparently not of firm architecture. Two surveyors said it would be safe; but another spoke differently, with this reserve, that, without other walls, it would endanger the church. It was held, that as it did not appear that it must necessarily be so constructed, the court was not to suppose that the parish would employ improper persons to spend their money, especially when the proposed plan had been approved of, by a majority of two to one (*q*).

64. Another ground of objection to granting a faculty for a gallery in a church was, that it would darken the pews. It appeared, however, to the court, that the church was competently lighted and that it was capable of receiving additional light from the form and glazing of the windows. The surveyors having no doubt on this point, and some of the parishioners being of the same opinion, the objection was held to be immaterial (*r*).

65. And whether the seats belong to the parish in general, or to such particular persons as prescribe for them, care is to be taken that they be not built so as to be a hindrance to divine service, or to any particular person

(*p*) Rogers' *Eccl. Law*, p. 170.

(*q*) *Groves v. Rector of Hornsey*, 1 *Hagg. C. R.* p. 195.

(*r*) *Ibid.* p. 196.

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from partaking of the benefit of it, or be in any other way
an obstruction to the good order of the church (*u*).

66. Pews and seats in a church ought to be regular, and of a moderate height, that the behaviour of the parishioners may the better be observed (*x*). Seats to be a moderate height.

67. Therefore, if any seat be built so high as to hinder those that sit behind from well hearing the clergyman, or prevent the churchwardens from well observing the behaviour of those that sit in them, as they are bound to present if there be anything amiss; this is to be remedied on complaint to the ordinary, by taking the seat down to a proper height (*y*). Seat too high to be reduced.

68. Where, under certain acts of parliament, there is any union of benefices, and the bishop has by faculty altered and re-adjusted the seats in the church, leaving (as required by the Act) half, at least, unappropriated; all the seats, whether appropriated or free under any new arrangement thus effected, shall be made as near as possible of the same size and general appearance (*z*). On union of benefices and rearrangement of seats (half being free) the whole are to be alike.

69. As the Ecclesiastical Court is careful to preserve the symmetry and proportions of a church, it would be an objection to a proposed alteration, that these would be violated (*a*). Symmetry of church to be preserved.

70. If an alteration of his seat, made by any individual, disfigures the church, or the churchwardens disapprove of it, or the parish object to it, the Ecclesiastical Court will enforce the restoration of the pew (*b*). Seat raised to be reduced.

(*u*) Prid. p. 303.

(*x*) Dawtree's Case, T. T. 2 Jac. C. B.; Degge, Pt. I. cap. XII.

(*y*) Prid. p. 115; Degge, Pt. I. cap. XII.

(*z*) Union of Benefices Acts Amendment Act (33 & 34 Vict. c. 90), sect. 7.

(*a*) Groves *v.* Rect. of Hornsey, 1 *Hagg. C. R.* p. 195.

(*b*) Parham *v.* Templar, 3 *Phill.* p. 528.

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Chancery can
ordinarily by
assent to its
jurisdiction
order restora-
tion of altered
church or re-
strain works.

Ecclesiastical
Court will give
an early
opinion as to
the law.

Country pro-
ceedings
frequently
irregular.

Such irregu-
larities must
be overlooked.

71. In a recent remarkable case, the Lord Chancellor, on appeal, held that the Court of Chancery had ordinarily no power to compel the restoration of a church to its original state, nor to grant an injunction to restrain the completion of the works; but as he thought the defendant (the incumbent) had acquiesced in respect to an injunction which had been granted by the Vice-Chancellor, that injunction would not be disturbed. But the plaintiff must undertake to apply to the proper Ecclesiastical Court for authority to complete the restoration of the church to its original state; and the words “without the authority of the bishop or archdeacon” should be added to the order for the injunction (*c*).

72. The Ecclesiastical Court is always anxious to give an early intimation of its opinion upon the law, more especially in parochial matters, in order that the parish may get into the right course, and that animosities may cease as soon as possible, since it seldom happens that the interest and excitement of a contest, are confined to the immediate litigants (*d*).

73. In the proceedings in the country courts, which are frequently very irregular, it is necessary to look to the substance of the proceedings rather than to the form of them, otherwise it would in most instances be impossible to administer justice between the parties (*e*). For it is the duty of the superior Ecclesiastical Courts to overlook irregularities in the country jurisdictions, and endeavour to get at the substantial merits of the case. There are, however, certain fundamental rules which it is impossible to neglect (*f*).

(*c*) *Cardinall v. Molyneux*, *Law Times*, 4 N. S. p. 607.

(*d*) *Blake v. Ushorne*, 3 *Hagg.* p. 732.

(*e*) *Tattersall v. Knihgt*, 1 *Phill.* p. 233.

(*f*) *Parham v. Templar*, 3 *Phill.* p. 522.

74. The Ecclesiastical Courts have always retained in their hands the question as to the costs of litigants, and have very much refrained from laying down any rules for guidance. Consequently the costs of opposing a faculty are in the discretion of the court, and not matter of strict law. And one great object of the court in parish contests is to quiet them as soon as may be, hoping that moderation on its part, in not condemning the objecting parties in costs, may teach them moderation in their future intercourse with their neighbours and fellow-parishioners (*g*).

75. And where there had been a difference of opinion in the parish, though the majority were in favour of a gallery, the court did not condemn the opposers in costs, although the witnesses were all of one family, as it did not wish to seem to imply that the opposition was not on public grounds (*h*).

76. The churchwardens, however, have a claim upon the court for its support, in the expenditure of money in the way directed by the parish and finally confirmed by the court, and therefore costs may fairly be given when the opposition has been carried on after the final approbation of the parishioners, particularly if it appears to have been factious or on private grounds (*i*).

77. A vicar opposed the grant of a faculty for the erection of a gallery, and the court decided against him, but gave no costs. The vicar appealed to the Court of Arches, which confirmed the decision of the court below, and said that it hardly thought that the original contest justified so lenient a sentence as that of the court below; the vicar should have been satisfied with that decision: the

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Question of
costs in hands
of court.

Costs of
opposing a
faculty are not
matter of
strict law.

Difference of
opinion in the
parish is con-
sidered.

Costs of
opposition on
private or
factious
grounds may
be given.

Vicar opposing
and appealing
vexatiously,
condemned in
costs.

(*g*) *Groves v. Rect. of Hornsey*, 1 *Hagg. C. R.* p. 197.

(*h*) *Ibid.*

(*i*) *Ibid.* p. 196.

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Vicar condemned in costs.

But (later) costs are of right and justice.

King's Bench granting prohibition cannot give costs in Ecclesiastical Court.

Church-wardens are to keep seats repaired.

Rector not chargeable.

Founder may prescribe to be exempt.

appeal had some appearance of being vexatious. Looking, however, to the relation in which the parties stood to each other, and considering how desirable it was that they should return to a good understanding, the court recommended the parishioners to waive pressing the costs (*k*). They refused to accede to the suggestion and costs were eventually given against the vicar (?).

78. But later it was said that costs are, in the opinion of the Judicial Committee of the Privy Council, a matter of right and justice, when a party in a suit succeeds; though formerly the rule in the Ecclesiastical Courts was not strict (*m*).

79. The Act 1 Will. IV. c. 21, s. 1, does not enable the Court of King's Bench, where a party has declared in prohibition and succeeded, to grant him his costs incurred in the Ecclesiastical Court (*n*).

80. It is the duty of churchwardens to keep the seats in the body of the church, equally with the church itself in repair (*o*), at the general charge of the parishioners, unless any particular person be chargeable to do it by prescription (*p*).

81. The rector or vicar is not chargeable to the repair of the body of the church or ornaments, being at the whole charge of repairing the chancel (*q*).

82. The founder of the church may prescribe that in respect of the foundation, he and his tenants have been freed from the charge of repairing the church (*r*).

(*k*) Tattersall *v.* Knight, 1 *Phill.* p. 237.

(*l*) *Ibid.* p. 238.

(*m*) Knapp and others *v.* Parish of Willesden, 2 *Roberts.* p. 369.

(*n*) Tessimond *v.* Yardley, 5 *B. & Adol.* p. 458.

(*o*) Wood's *Inst.* p. 94.

(*p*) Degge, pp. 163, 168.

(*q*) *Ibid.* p. 168.

(*r*) *Ibid.*

83. In like manner the inhabitants of a chapelry may prescribe that they have paid, time out of mind, a fixed sum, or repaired a part of the church; and have been freed from all other charges about the repair thereof (*s*). CAP. I.
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84. The repair of the church (and this may be said of the supply of necessaries for divine worship), is a duty which the parishioners are bound by the common law of England to perform, not a voluntary act which they may decline at their discretion, for the law is absolutely imperative upon them (*t*). It is not a voluntary act of parishioners.

85. Lining and putting in cushions does not constitute repair, but is mere ornament. It is not usually done by the parish, but by each individual for his own convenience and comfort (*u*). Lining and cushions are not repair.

86. Where two parishes are united by act of parliament the repairs of the church must be done by the joint repair of the parishioners of both (*v*). United parishes jointly repair.

87. There seems formerly to have been doubt whether a foreigner (*i.e.*, a non-parishioner) holding lands in the parish was liable for such matters as bells, seats, and ornaments, or only for the repairs of the fabric; but Degge conceived him to be clearly liable (*x*). Former doubt of liability of non-parishioner.

88. But probably the Compulsory Church Rate Abolition Act (*y*), depriving the parishioners of power of raising money, has had the effect of putting an end to all such questions of liability. Affected by Church Rate Abolition Act.

89. Where city parishes are united under the Act of And exemption on union of benefices.

(*s*) Degge, p. 169; Hob. p. 67; 2 Rolle's *Abbr.* p. 290 (*Prohib. I. 2*).

(*t*) Gosling *v.* Veley, 12 *Q. B.* p. 391.

(*u*) Pettman *v.* Bridger, 1 *Phill.* p. 331.

(*v*) Harman *v.* Renew, 3 *Salk.* 89; 4 & 5 *Will. & Mary*, c. 12; 23 & 24 Vict. c. 142.

(*x*) Degge, p. 205.

(*y*) 31 & 32 Vict. c. 109.

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1860, the bishop may by faculty alter and readjust the seats; and money expended and required for such purpose, and not provided by donation, is to be defrayed from funds provided by the Act (*z*).

Repair by parish has no effect on appropriation.

90. The fact of reparation by the churchwardens, on behalf of the parish, cannot oust the ordinary of his jurisdiction in the disposal of them (*a*).

Chancel seats repaired by repairer of chancel.

91. The seats in the chancel come under different considerations. The person who repairs the chancel repairs all seats there, except such as are held by prescriptive title or faculties, and of course these must be repaired by their owners.

Unless modified by special custom.

92. But whatever may be the general law and *prima facie* presumption with regard to the repairs of the chancel, still it is liable to be controlled by special custom. In London such a custom exists generally, and although that may be on peculiar grounds, the inference from the authorities upon this point is that such custom may also exist in country parishes. And such custom was held good, after being found by a jury to exist, in the parish of Clare, in the diocese of Norwich (*b*).

Loose seat removable by owner.

93. In Degge's opinion if a seat be set loose in a church, the owner of the seat may remove it (*c*).

So if built by an individual without license may be pulled down by authority.

94. In the opinion of Watson and Degge, if any person presume to build a seat in the church, without license of the ordinary, or consent of the clergyman and churchwardens, or in an inconvenient place, or too high, it may be pulled down by the proper authority (*d*).

When erected are not

(*z*) 23 & 24 Vict. c. 142, s. 28.

(*a*) Greaterchy *v.* Beardslsy, 2 *Levinz*, p. 241.

(*b*) Bishop of Ely *v.* Gibbons, 4 *Hagg.* p. 162.

(*c*) Degge, p. 172.

(*d*) See Watson's *Clergy. Law*, p. 389; Degge, Pt. I. cap. XIL

cannot be pulled down without the consent of the minister and churchwardens, unless, after cause shown by a faculty or licence, from the ordinary (*e*).

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removable
without
faculty.

96. And though the freehold of the church be in the parson, yet he cannot pull down any of the seats, either anciently or recently erected; but by license from the bishop, or by consent of the churchwardens (*f*).

Not by the
parson alone
though owning
the freehold.

97. No alterations should be made by a clergyman in his church without in the first instance obtaining the necessary legal sanction. If the private sanction of the bishop or archdeacon had been obtained prior to alterations which had been made, the court might not be disposed to insist upon a faculty being taken out; but a clergyman has no right whatever to make alterations on his own responsibility (*g*).

Private sanc-
tion of bishop
or archdeacon
might suffice.

98. In an old case it was held, that supposing that the churchwardens had the power of removing seats at their pleasure, yet even then they could not cut the timber of a pew. For it has been held, that the person who built the pew has an action of *trespass* against them for breaking it, even if it has been erected without license of the ordinary, and is a hindrance to the parishioners (*h*).

Church-
wardens
cutting the
woodwork
liable to action
of trespass.

99. Watson says, "I shall not question the law of this case, but this much is to be said against it, that the freehold being in another person, the annexing of a seat thereto seems to make the seat to be a part of the freehold, and so to be in him in whom is the freehold, and the use of the church; and if so, then the breaking of the timber could be no wrong to him that had no legal right in it, after it

Watson's
opinion.

(*e*) *Jarratt v. Steele*, 3 *Phill.* p. 170.

(*f*) *Degge*, Pt. I. cap. XII. p. 218.

(*g*) *Sieveking v. Evans & K.*, 15 *Law Times Rep.* p. 302.

(*h*) *Gilson v. Wright, Noy*, p. 108.

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Trespass for
breaking a
seat claimed
by non-
parishioner.

Trespass is
held to lie.

Even where
the seat was
put up without
authority.

Breaking open
door and
altering pews
is a grave
offence.

was fastened to the freehold, and became as other seats, of common use, and at the disposal of the ordinary” (*i*).

100. In Barrow *v.* Kew (*k*), an action of trespass was brought for breaking a seat, wherein, as belonging to his house, the plaintiff, time out of mind, used to sit. The house was out of the parish, and upon that circumstance much discussion arose; but the propriety of the form of action does not appear to have been once questioned.

101. In the case of Spooner *v.* Brewster (*l*), the Court of King’s Bench referring to the decision in the case of Dawtree *v.* Dee, that if the pew itself, which the party has put up, *be broken, trespass lies*, said that although that case had been somewhere doubted, it seemed consistent with law, and good sense, and it agreed with the decisions in 9 Edw. IV. c. 14, s. 8.

102. And as in Gilson *v.* Wright (*m*), *trespass* was held to lie against the churchwardens for removing the wood work of a pew, which had been put up by the plaintiff, who was a person without any authority, *& fortiori* might such action be maintained, for breaking and removing the materials of one held by a prescriptive title.

103. In a very recent case in the Arches Court (1861) where the churchwardens, against the expressed direction of the rector, and without authority from the bishop, broke open the church door, and with the assistance of workmen, altered the position of the pulpit, and pulled down and rearranged certain of the seats in the church; the court held, most strongly, that all who had taken part in those

(*i*) Watson’s *Clergy. Law*, p. 387.

(*k*) Barrow *v.* Kew, 2 *Keb.* p. 342; Barrow *v.* Keen, *Siderf.* p. 361, p. 4.

(*l*) Spooner *v.* Brewster, 3 *Bingh.* p. 138.

(*m*) Gilson *v.* Wright, *Noy*, p. 108.

proceedings had been guilty of a grave ecclesiastical offence (*n*).

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104. And though the freehold of the churchyard is in the parson, trespass lies for the erection of a tombstone, against a person who wrongfully removes it from the churchyard and erases the inscription. For even the parson has no right to remove the tombstones, for the property in them remains in the persons who erected them (*o*).

And so trespass lies for removing a tombstone.

105. And Lord Coke held, that the heir may bring *trespass* against anyone who pulls down the coat armour, &c. of his ancestors, lawfully put up in the church (*p*). In the case of *Pym v. Gorwyn* (*q*), Chief Justice Coke cited the case of Lady Gray, who, at her husband's funeral, put up his arms and helmet in the church, and on the parson pulling them down she brought *trespass* which was held to lie.

Or for removing coat armour.

106. Though the freehold of the church be in the incumbent, and the seats be fixed to it; yet because the church is dedicated to the service of God, and is for the use of the inhabitants, and the seats are erected for their convenience in attending divine service, and such inhabitants are chargeable with the repairs of the seats. And, therefore, if any seat, though affixed to the church, be taken away by a stranger, the churchwardens, and not the parson, may have their action against the wrong-doer (*r*).

Action by church-wardens for removing seat and not by parson.

107. Ayliffe says (*s*), that if a seat is built in the body

Ayliffe's opinion contradictory.

(*n*) *Dewdney v. Good, Jurist*, 7 N. S. p. 637; and referred to as an authority by same court, *L. R.*, 3 Ad. & Ec. p. 124.

(*o*) *Spooner v. Brewster*, 3 Bingh. p. 138.

(*p*) Mich. 14 Jac. 1, Brownl. & Gouldsb. p. 45.

(*q*) *Pym v. Gorwyn, Moor*, p. 878.

(*r*) *Watson*, pp. 382, 387; citing *Year Book*, 8 Hen. VII. p. 12.

(*s*) Ayliffe's *Parerg.* p. 486.

CAP. I.
STRUCTURE.

of the church without the bishop's consent, the churchwardens may pull it down; but he also says, that the freehold of the church being in the parson, when any person has fixed a seat in it, the seat then becomes parcel of the freehold, and consequently the right is in the parson. The two statements appear contradictory.

Not removable by chapel-wardens without perpetual curate.

Lay impropriator removing seats in chancel ordered to restore them.

108. A chapelwarden of a parochial chapelry has not, by virtue of his office, any authority to enter the chapel and remove the pews without the consent of the perpetual curate (*t*).

109. The lay impropriator of the chancel forcibly broke into a church and pulled down certain pews in the chancel, and erected others in their place. A criminal suit against him was instituted by the vicar. At the hearing before the Exchequer Court the impropriator was admonished to pull down the seats he had erected, to replace those he had pulled down, and to reinstate the chancel as it was; a time was also fixed by the court for him to certify that he had complied with the sentence (*u*), and he was condemned in costs.

110. The remedy is by a suit in the Ecclesiastical Court, and in ordinary cases commences with a citation to show cause why a monition for the restoration of the seats to their original condition should not issue; but where the acts had been done by the incumbent the Consistory Court of London refused a motion for such a monition, and directed that proceedings should be taken under the Church Discipline Act (*x*), as for a criminal act. The case went to the Arches Court on appeal, when the judge, deciding the case on its merits, declined

(*t*) *Jones v. Ellis*, 2 Y. & J. p. 265.

(*u*) *Jarratt v. Steele*, 3 *Phill.* p. 170.

(*x*) 3 & 4 Vict. c. 86,

to give an opinion whether such form of proceeding was or was not right (*y*).

111. Upon the suggestion of the court, and on consent of both sides, in order to save expense, the archdeacon, as a matter of favour to the court, visited the church, and made a report as to what alterations should, in his opinion, remain, and what things should be restored. The court gave sentence in accordance with the report, except in one particular (*z*).

112. The freehold of the church being in the parson, ^{Parson only has right to key of church.} he only, in the first instance, has the right to the possession of the key of the church (*b*), and the churchwardens have not, as against the incumbent of a church or chapel, a joint possession of it, so as to disable him from maintaining *trespass* against them for acts of violence, such as breaking and entering a chapel, and pulling down a pew in the body of it (*c*).

113. And even a perpetual curate of an augmented parochial chapelry has a sufficient possession whereon to maintain *trespass* against the churchwardens for breaking and entering the chapel and destroying the pews (*c*). ^{Perpetual curate has action of trespass against wardens for destroying pews.}

114. But if a curate act contrary to the churchwardens in the removal of a pew, the curate may be proceeded against by the churchwardens; for the curate has no authority to alter the seats (*d*). ^{Curate removing a pew liable to action by wardens.}

115. But in respect to articles not affixed to the church it is different; thus, if a man take the organ out of a church the churchwardens have an action of *trespass* ^{Otherwise as to an organ.}

(*y*) Sieveking & E. v. Kingsford, *Law Journal Rep.*, 36 N. S. p. 4.

(*z*) *Ibid.* p. 3.

(*a*) *Frances v. Ley*, *Cro. 2 Jac.* p. 367.

(*b*) *Lee v. Matthews*, *3 Hagg.* p. 173.

(*c*) *Jones v. Ellis and others*, *2 Y. & J.* p. 265.

(*d*) *Parham v. Templar*, *3 Phill.* p. 526.

CAP. I.
STRUCTURE.

**Remedy for
pulling down
privately-
erected seats.**

**Materials of
parish seats
belong to the
parish.**

**Materials of
seats illegally
put up belong
to the parson.**

against him ; because the organ belongs to the parishioners, and not to the parson, and the parson cannot sue the taker in the Ecclesiastical Court (*f*).

116. If, however, a man, with the assent of the ordinary, doth set up a seat in *nave ecclesiae* for himself, and another doth pull down or deface it, trespass *vi et armis* doth not lie against him, because the freehold is in the parson, and so the only remedy is in the Ecclesiastical Court (*g*).

117. Seats legally put, and at the expense of the parishioners, although they be affixed to the parson's freehold, yet the materials do not, therefore, become his when taken down again, but belong to the parishioners ; for they, having a right to put them there, because of the common use which they have of that part of the church, have also a right to take them away again ; and the materials may be disposed of by the churchwardens in the same manner as the materials of the roof of the church, or any other part which they are bound to maintain (*h*).

118. If, on the other hand, any man presume to build any seat in church without legal authority, it may be pulled down by order of the bishop, or his archdeacon, and the materials belong to the parson (*i*), as they have been fixed to his freehold. The churchwardens cannot claim them for the parish, because they did *not put them up there* ; and the private person who built the seat having had *no right to put them there*, he can have no right, after having fixed them to the freehold, again to take them away (*k*).

(*f*) Rolle's *Abr.* p. 393.

(*g*) Watson, p. 386.

(*h*) Prid. p. 303; Degge, Pt. I. cap. XII. (5th ed. p. 172.)

(*i*) Degge, p. 172.

(*k*) Prid. p. 304.

119. Therefore, neither he nor the churchwardens can have anything to plead in bar of that right, which the minister has acquired to them, by having had them fixed to his freehold. For if a man wrongfully plant a tree in another man's soil by putting it there he makes it part of the freehold, and therefore whenever it is again removed it belongs to him who owns the land (*l*). CAP. I.
STRUCTURE.

In right of his
freehold.

120. The door of a pew hung upon hinges, removable without interfering with the staple, is a chattel, and not part of the freehold (*m*). A pew door is
a chattel.

121. But the lock and key to the door of the church must be taken as part of the building, just as in an ordinary house (*n*). Church lock
and key are
part of the
building.

122. Other considerations affect the materials of demolished pews held under faculty or prescription (*o*).

(*l*) Prid. p. 304.

(*m*) Mant *v.* Collins, 10 *Jur.* p. 30; 15 *L. J., Q. B.* p. 248.

(*n*) Chapman *v.* Jones, *L. R.*, 4 *Ex.* p. 282.

(*o*) See *post*.

PART B.

PARISH CHURCHES AND CHAPELS OF EASE.

DIVISION a.

ORDINARY SEATS.

CHAPTER II.

U S E.

Use of seats.CAP. II.
USE.

123. WE now come to the consideration of the use of the seats when put up, but, as heretofore, reserving to a subsequent chapter all matters connected with seats held, or claimed to be held, by virtue of faculty or prescription.

Nor allotted
before the
Reformation.

124. It was said by the learned antiquary Bishop White Kennett, that “ Before the Age of our Reformation no Seats were allow’d nor any different apartment in a Church assign’d to distinct Inhabitants but the whole Nave or Body of the Church was common, and the whole Assembly, in the more becoming postures of kneeling or standing, were promiscuous and intermixt” (*a*).

Wills of in-
cumbents
bequeathing
the seats.

125. He is followed by Johnson who says (and Burns after him), that “ many wills of incumbents are to be seen whereby they did of old bequeath the seats in the church to their successors or others as they thought fit” (*b*). Athon and Lindwood are silent in the case. The common law books mention but two or three cases before this time and those relating to the chancels and seats of persons of great quality.

Fixed seats
were intro-
duced at
earlier date.

126. Subsequent studies of archæologists, however, leave no doubt that the introduction of fixed seats took place at a period clearly antecedent to the Reformation, though it

(*a*) Kennett’s *Antiq. of Ambrosden*, p. 596.

(*b*) Johnson, Vol. I. p. 178.

is highly probable that their use was by no means universal even at that date. The statement of Johnson as to the moveable seats being frequently the property of and bequeathed by the incumbents remains uncorroborated.

CAP. II.
USE.

127. In a case in the third year of Queen Anne (1706) ^{Forms were earlier.} the reporter adds:—"Likewise it was said that anciently there were no pews in churches but only forms" (c).

128. The rare references which occur as to the use of church seats at an earlier period probably relate to chancel seats (d), or moveable seats, as is more particularly apparent from the other part of this work (e).

129. By the general law the soil and freehold of the church and churchyard belong to the parson. For this reason the parson alone can give a licence for burying in the church (f). We must see how far this general right of the parishioners is affected by the freehold right of the parson, such as it is.

130. Sir John Nicholl does not appear to have had a high idea of the parson's freehold, for he says, "The freehold of the chancel may be in the rector, lay or spiritual, as the freehold of the church is, by *a sort of legal fiction*, in the incumbent" (g).

131. It is said, that though the freehold of the church is in the incumbent, yet the use of the church to hear divine service is in the parishioners (h), who have, by the general law and of common right, a common property in the pews of the church. These pews are for the use in

By a sort of
legal fiction.

Use of church
is in the
parishioners in
common.

(c) 6 Mod. p. 231.

(d) As in Wyche's case, the chancel only is referred to. *Year Book*, 9 Edw. IV., Ed. 1597, p. 14.

(e) Also Johns. p. 175; Kennett, p. 596; Burn's *Ecol. Law*, p. 358, citing the above.

(f) Francis v. Law, 2 Cro. p. 367; Day v. Beddingfield and others, *Noy*, p. 104; 2 Rol. p. 337, c. 10.

(g) Rich v. Bushnell, 4 *Hagg.* p. 170.

(h) 12 Coke's *Rep.* p. 105.

CAP. II.
USE.

common of the parishioners, who are *all* entitled to be seated, orderly and conveniently, so as best to provide for the accommodation of *all* (*i*).

All are entitled to seats.

132. Every parishioner has a right to be seated, but not to a pew (*k*).

For convenience at divine service.

133. The seats are for the use of the parishioners to sit, kneel, and stand in, for the hearing of the word of God read and preached, and joining in the prayers and other religious duties with the other parishioners (*l*).

And for their general accommodation.

134. The object to be attained is the general accommodation of *all* the parishioners (*m*).

135. And this distinction was distinctly held in view by the framers of the original Church Building Acts, for although allotments and rents are legalized, it is only till such time as a sufficient endowment can be obtained and no longer.

At first no seat permitted in the body of the church.

136. Thus it was held, in the earliest known case bearing upon the subject of church seats, that, unless by prescription, a seat in the body of the church could not be permitted, for the church is common for everyone, wherefore it is not in reason that one should have a seat and that two should stand; for no place is more for one than for another, and that a private seat was a common nuisance to all, because it hindered their right of standing in the church (*n*).

Practice of arrangement by bishop has since arisen for maintenance of order.

137. Though thus void of all ancient foundation, a system, based upon the reasonable claim and duty of the bishop, as ordinary, to preserve order has gradually grown up, by

(*i*) *Fuller v. Lane*, 2 *Add.* p. 425; *Butt v. Jones*, 2 *Hagg.* p. 424; *Ayl. Par.* p. 484.

(*k*) *Londonderry Cath.*, *L. J.*, 8 *N. S.* p. 861.

(*l*) *Degge*, p. 210; *Watson*, p. 382.

(*m*) *Report of Comrs.* 1832, 12mo. ed. p. 48; *Fuller v. Lane*, 2 *Add.* p. 425.

(*n*) *Year Book*, 8 *Henry VII.* p. 12.

which he proceeds to arrange the church in such manner as the service of God may best be celebrated and that there be no contention in the church (*o*). And therefore the authority of the ordinary (that is, of the bishop or person acting for him [*p*]), extends *prima facie* over all pews.

CAP. II.
USE.

Ordinary's authority.

138. Also, perhaps, as having the general cure of souls within his diocese (*q*).

And as having cure throughout diocese.

139. Therefore, if a question arises concerning a seat in the body of the church, the ordinary shall decide it (*r*), because the freehold is in the parson, and the place is dedicated and consecrated to the service of God.

Disputes to be decided by him.

140. And all controversies concerning seats in a church are determinable before the ordinary, except where a person claims a seat by prescription (*s*).

Unless claim be by prescription.

141. In Brabin's case the bishop had displaced him and given seat to Trediman by faculty. He applied for prohibition which was granted, 1st, because an alleged custom that twelve parishioners allotted seats was a reasonable custom (*t*); and 2nd, that the faculty was to Trediman and his heirs, and not limited to residence in parish. Justice Houghton said that if there had not been an immemorial custom for the churchwardens to repair and make new seats no prohibition could have been granted "for ancient custom *ne poet vaer*" as to new seats (*u*).

Rolle's report of Brabin's case.
(Doubtful in part.)

(*o*) 12 Coke's *Rep.* p. 105.

(*p*) Co. *Litt.* 96 a.

(*q*) Ayl. *Par.* p. 484.

(*r*) Corven's case, 12 Coke's *Rep.* p. 105.

(*s*) Anon. p. 12; *Mod.* p. 401; Eaton *v.* Ayliffe, *Hetley*, p. 95; Hobart, p. 69.

(*t*) Another report of the same case says that the prohibition was granted on other grounds; 1st, because the grant to a man and his heirs was bad; and 2nd, because excommunication was too great a punishment for an interference with the bishop's nominee (Popham, p. 140).

(*u*) 2 Rolle's *Rep.* p. 24.

CAP. II.
USE.

Common law
not to meddle
in church
seats;

but only the
Ecclesiastical
Courts, if no
contrary
custom.

Nor can
Chancery con-
trol the Eccle-
siastical
Courts.

On union of
benefices half
seats as re-
adjusted can be
allotted.

Bishop's juris-
diction extends
to chapels of
ease.

142. Ayliffe says that in a case respecting a seat in the body of the church, prohibition was refused, “For (said Houghton, referring to the case in the Year Book, 8 Hen. VII., 12), this disposition of pews in the church belongs to the order and discretion of the ordinary.” And the rest of the judges did all of them say that they would not meddle with the deciding of such controversies about seats in the church, but would leave the same to whom it did more properly belong. And thus the Ecclesiastical Court has jurisdiction and power to dispose of pews and seats in the body of the church, notwithstanding the church is the parson’s freehold; if there be no custom to the contrary (*v*).

143. And in a recent case Lord Chancellor Westbury intimated that his court could make no order as to works to be done in the church; but said that the plaintiff must apply to the proper Ecclesiastical Court for authority to restore the church to its original state, and that a former order of the Vice-Chancellor must be modified, by adding a requirement that the authority of the bishop or arch-deacon should be obtained before any works in the church were effected (*x*).

144. Where, under certain acts of parliament, there is any union of benefices, and the bishop has by faculty altered and re-adjusted the seats and the appropriation thereof in the church of the benefice, at least one-half of the sittings shall be left unappropriated (*y*). The power of allotment by the bishop is thus limited to the other half of the seats.

145. And in like manner as the disposal of seats in the mother church belongs to the ordinary, he has authority

(*v*) Ayliffe’s *Par.* p. 485.

(*x*) Cardinal v. Molyneux, *L. T.*, 4 N. S. p. 607.

(*y*) Union of Benefices Acts Amendment Act (34 & 35 Vict. c. 90), sect. 7.

as to seats in a chapel of ease belonging to the mother church (z).

CAP. II.
USE.

146. But an Ecclesiastical Court cannot entertain a suit as to the allotment of seats in a place of divine worship unless such place is a legally-consecrated building (a).

But not in an unconsecrated building.

147. In a suit for perturbation of seat, objection was taken to the jurisdiction of the Ecclesiastical Court on the ground that the church had been pulled down and rebuilt, and that on such rebuilding there had been no consecration. The Privy Council in deciding the case (upon other grounds) gave no judicial decision whether, if a church be rebuilt upon the old lines of foundation, including within it the same originally consecrated ground and no more, such church does need re-consecration; and wished it to be distinctly understood that the court by no means intended to recognize or sanction such doctrine (b).

Church re-built in sections, but no further consecration, does not stop Ecclesiastical Court.

148. No action at common law can be maintained for a disturbance of a pew which is not annexed to any house, if it be in the body of the church. But it has been suggested that a chancel is different, as it may be the freehold of an individual (c).

No action lies for disturbance except under prescriptive right.

149. And the mere right to sit in a particular pew is not such a temporal right as that, in respect of it, an action at common law is maintainable (d). And the disturbance is matter for ecclesiastical censure only (e).

Matter for ecclesiastical censure.

150. The existing rules, upon which such controversies are now decided, have simply grown up. The general law, with respect to pews and sittings in churches, was,

The law was little understood.

(z) *Lee v. Daniel*, 12 *Mod.* p. 228.

(a) *Battiscombe v. Eve*, *Jur.*, 9 *N. S.* p. 210; *L. J.*, 7 *N. S.* p. 697.

(b) *Parker v. Leach*, 4 *Moore's P. C. Rep.*, *N. S.* p. 193.

(c) *Mainwaring v. Giles*, 5 *B. & A.* p. 361.

(d) *Ibid.* p. 362.

(e) *Ibid.* p. 361.

CAP. II.
USE.

Law still in unsatisfactory state.

As to seats in chancel, especially doubtful.

Term *chancel* here not applied to a side chancel or chapel.

Church in act of parliament includes chancel.

Appropriation of chancel seats claimed by rector.

for a long time, little understood; and erroneous notions on this subject are even now current, at least in many parts of the country, and have led to much practical inconvenience (*f*). And, indeed, the law on this subject is in some respects still in an unsatisfactory state.

151. Considerable doubt existed as to the appropriation of seats in the chancel, other than those used by persons engaged or assisting in the performance of divine service; in fact such other seats in the chancel are a comparatively recent introduction.

152. It may be well here, in order to avoid possible mistakes, to refer to the fact that the term *chancel* was formerly not unfrequently used with a want of technicality; when “*a chancel*” is spoken of it often refers to a chapel or aisle on one side of the actual chancel, and consequently is subject to totally different considerations.

153. So, although, in strictness, the word “*church*” in ecclesiastical language is generally understood to mean the body of the church, yet where it occurred in a modern act of parliament (*g*), the Arches Court held that the word was used by the legislature in its usual and common sense of including the chancel and the whole building, and that manifest inconvenience would result from any other construction (*h*).

154. The right of appropriation of seats in the chancel was at first claimed by the rector on the ground that he repaired, and was compellable to repair, that part of the church. It is distinctly laid down that the charge of repairing the chancel is upon the rector, whether he be appropriator, impropriator, or instituted rector of the

(*f*) *Fuller v. Lane*, 2 *Add.* p. 425.

(*g*) 5 *Geo. IV.* c. 36.

(*h*) *Rippin & W. v. Bastin, L. Journal Rep.*, 38 *N. S., Ecoles.* p. 37.

parish (*i*). In some churches, however, the vicar is by special composition bound to repair, and then he is said to have the freehold of the chancel, as well as of the body of the church and churchyard (*k*). The person, therefore, who repairs the chancel repairs all the seats there, except such (if any) as are held by faculty or prescription, which must, of course, be repaired by their owners.

155. In an early case it was distinctly laid down that the seats in the chancel are properly in the disposal of the rector or parson ; but that it would seem that a parishioner may prescribe for a seat there (*l*).

156. On this ground of repair Prideaux considers that if the ordinary do not, in exercise of his right, interfere in the disposal of seats in the chancel, the parson may dispose of them in the same manner as the churchwardens do those in the body of the church ; but if any controversy arise, there is an appeal to the bishop from the one as from the other (*m*). But quære ? who is to appeal to the bishop ; But quære ? it is not suggested that anyone has a right to a seat in the chancel unless by prescription, or (possibly) by faculty ; and it is declared that the use of the chancel is for the performance of divine service.

157. And on the same ground Ayliffe, holding a stronger opinion, says that the ordinary has no right to place anyone there, and that the rector shall have the chancel to himself in a peculiar manner. He does not, however, suggest that the rector has any right to dispose of the seats there (*n*).

158. The exception is in the City of London, where London claims to be an ex-

CAP. II.
USE.

Repairs of
chancel.

Repairs of
seats there.

Seats in
chancel may
be prescribed
for.

Prideaux
thinks rector's
right inde-
pendent of
the bishop.

Perhaps Ayliffe, also.

(*i*) *Veley v. Burder*, 12 *A. & E.* p. 302.

(*k*) *Prid.* p. 330.

(*l*) *Hall v. Ellis, Noy*, p. 133.

(*m*) *Tyrrwhitt's Prid.* p. 119.

(*n*) *Ayliffe's Parerg.* p. 486.

CAP. II.
USE.

ception to
general rule.

But Gibson
opposed to
Ayliffe;

and Queen's
Bench later.

Rector has
chief pew in
chancel, and
ordinary ap-
points others.

Vicar's per-
sonal claim.

But much
doubt still
entertained.

by custom the parish is bound to repair the chancel; the churchwardens, probably in consequence of this, claim the right of independent appropriation (*o*). But no such question seems ever to have been tried. No usage can give them a title to do this exclusive of the bishop. For when any controversy arises, they have nowhere else to go but to the bishop for a decision of it (*p*), and the claim is treated as non-existent in certain modern acts of parliament (*q*).

159. Bishop Gibson's opinion is directly contrary to that of Ayliffe. He says that the seats in the chancel are under the disposition of the ordinary in like manner as those in the body of the church (*r*). And more recently there are dicta in the Queen's Bench to the same effect (*s*).

160. More modern decisions, however, lay down that the general rule is said to be that the rector is entitled to the principal pew in the chancel, but that the ordinary may grant permission to other persons to have pews there (*t*).

161. Johnson says that in some places, where the parson repairs the chancel, the vicar, by prescription, claims the right of a seat for his family, and also of giving leave to bury there, taking a fee upon the burial of any corpse (*u*).

162. The Commission on the Ecclesiastical Courts, however, reported that the law has not been settled with certainty, and great inconvenience has been experienced from the doubts continued to be entertained. That some are of

(*o*) Tyrr. *Prid.* p. 119.

(*p*) *Prid.* p. 302.

(*q*) 18 & 19 Vict. c. 127; 23 & 24 Vict. c. 142.

(*r*) Gibson's *Co.* p. 224.

(*s*) Clifford *v.* Wicks, 1 *B. & A.* p. 498; Morgan *v.* Curtis, 3 *M. & Ry.* p. 389.

(*t*) Clifford *v.* Wicks, 1 *B. & A.* p. 506.

(*u*) 1 Johnson's *Cl. Va. me.*, p. 269, followed in 1 Burn's *Eccl. Law*, p. 363.

opinion that the churchwardens have no authority over pews in the chancel; while it has been said that the rector, whether spiritual or lay, has in the first instance, at least, a right to dispose of the seats; claims have also been set up on behalf of the vicar, and the extent of the ordinary's authority to remedy any undue arrangement, with regard to such pews, has been questioned (*x*).

163. It does not appear upon what ground this part of the church intended for a special purpose should be appropriated to the general seating of the parishioners, and thus be converted to the same purpose as the body of the church.

164. Nor does it appear why the rector's family, who can have no ecclesiastical functions to perform, should have a preference over the rest of the parishioners. But, as matters stand, such is held to be the case, and all the other seats in the chancel are now generally supposed to be in all respects subject to the appropriation by the churchwardens under the bishop and under the same conditions as the seats in the body of the church.

165. The earliest record of any systematic arrangement of seats by the ordinary's authority, appears at the beginning of the seventeenth century, when in a few instances the bishop granted a faculty for the purpose; showing that it could be only done by the exercise of an (actual, assumed, or arrogated) authority formally granted in very few individual cases. No general rule as to the disposition of the seats amongst the parishioners in order of rank appears to have been laid down until the year 1825, when, in the course of his judgment in the case of *Fuller v. Lane*, Sir John Nicholl, then Dean of the Arches, said (*y*) :—

“The parishioners have a claim to be seated according

Preference to rank and

(*x*) *Rep. of Com. on Ecc. Cts.* p. 130.

(*y*) *Fuller v. Lane*, 2 *Add.* p. 426.

CAP. II.
USE.

Vicar's claim
doubted.

Grounds for
any appropri-
ation in chancel
not apparent.

Commence-
ment of sys-
tematic arrange-
ment.

CAP. II.
USE.

station, first
ruled in 1825.

to their rank and station ; but the churchwardens are not, in providing for this, to overlook the claims of all the parishioners to be seated, if sittings can be afforded them. Accordingly they are bound in particular not to accommodate the higher classes beyond their real wants, to the exclusion of their poorer neighbours, who are equally entitled to accommodation with the rest, though they are not entitled to equal accommodation, supposing the seats to be not all equally convenient.”

No authority
given.

166. The question, however, before the court for decision did not relate to the general arrangement of the parishioners, but was a contest with respect to the application of an individual for a faculty to secure to him and his family a particular pew. The observations of the judge, above quoted, do not therefore carry the weight of a judgment. It will be noted that the judge referred to no authority for his opinion, and a careful search has failed to discover any. If no authority be found, it would seem that the matter is thrown back to the ancient decisions that the church is common for every one (z). Such an arrangement as was contemplated by the judge in 1825 was perhaps not unsuited to the ideas of the time; but now, and especially where there is a rapidly-increasing population, very different considerations operate.

Reasons for
doubt of ordi-
nary's power.

167. It may be doubted whether the ordinary has the power to deprive the parishioners at large of their equal rights in the church by allotting a fixed part to certain individuals or families to the exclusion, so far, of all the rest of the parishioners. And supposing that the claim to such power be maintainable, there seems no reason to doubt that the exercise of it must depend upon the discretion of the ordinary; the churchwardens are bound to

If existing
must be exer-
cised with
discretion.

(z) *Year Book*, 8 Henry VII. p. 12.

exercise their authority with discretion (*a*), and the same rule would apply to the bishop; and it has never been suggested that he is bound in its exercise to favour an applicant in preference to the parishioners generally.

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USE.

168. But, since the case of *Fuller v. Lane* (*b*), ordinaries have been accustomed to assume, as an established rule of law, that it is their duty to allot seats to parishioners according to the rank and station of the applicants; but the remarks of the judge, in that case, even if they had had the force of a judgment, can scarcely be taken to favour an allotment to some parishioners to the entire exclusion of others.

Present practice of doubtful force.

169. The authority actually exercised by the ordinary in the use of the seats is performed by means of the churchwardens, as a matter of convenience, and they place the parishioners in the different pews (*c*).

Bishop's authority usually exercised through the churchwardens.

170. As the churchwardens have the care of the church and of all the seats therein, they must see that good order be preserved, and no disturbance or contention be made about them in the house of God; but (Prideaux adds) that every man regularly take that seat and that place in it to which he has a right, whether it be by prescription, by order of the bishop, or by their own permission (*d*).

Duty of wardens to keep good order in use of the seats.

171. Watson, on the other hand, shows the inconvenience which might arise from the plan of allotment. If merely the best and upper seats be appropriated, persons of greater quality could then only be seated in inferior and remote parts of the church, the best seats by such means being taken up, it may be by only inferior tenants

Inconvenience of appropriating best seats only.

(*a*) *Wyllie v. Mott & F.*, 1 *Hagg.* p. 33.

(*b*) *Fuller v. Lane*, 2 *Add.* p. 426.

(*c*) *Drury v. Harrison*, cited in *Parham v. Templar*, 3 *Phill.* p. 516; *Morgan v. Curtis*, 3 *M. & Ry.* p. 349; *Wood's Inst.* p. 94.

(*d*) *Tyrr. Prid.* p. 108. No authority is given for this statement.

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or servants living in the houses, to which the pews are said to belong (*f*).

Wardens
should prevent
improper
occupancy.

Limitation of
authority
where all seats
moveable.

Wardens act
only as officers
of the bishop.

Doubt if they
can have the
right inde-
pendent of the
bishop.

172. The churchwardens should take good care to prevent improper occupancy, and if they do not attend to this they are guilty of a breach of their duty (*g*).

173. The doctrine that the general disposal of the seats appertains to the churchwardens, perhaps, must receive some limitation where the seats are all moveable or where chairs alone are in use (*h*).

174. The common law never meddles with these matters, except where a seat is claimed by prescription. All other seats it wholly leaves to the disposing and ordering of the bishop; and so long as he has the decision of all controversies about them, this will always be a proof of his right in the matter. Therefore, whatsoever usage the churchwardens may pretend to for the disposal of the seats in any church, they must be understood to do this solely by the authority of the bishop, as officers acting under him (*i*).

175. It seems doubtful whether the churchwardens have, under *any* circumstances, a right to dispose of seats independent of the ordinary. Dr. Prideaux held that how much soever it may have been the usage in any place for the churchwardens to dispose of the seats in the church, it can never amount to a prescription to exclude the bishop; because, they being officers under him, whatever they do in this kind, must always be supposed to be done by an authority derived from him, either positively granted, as by his faculty, or else tacitly allowed (*k*).

(*f*) Watson, p. 392.

(*g*) Walter *v.* Gunner & Drury, 1 *Hagg. C. R.* p. 317.

(*h*) Ritchens *v.* Cordingley, *L. R.*, 3 *Adm. & Eq.* p. 119.

(*i*) Prid. p. 307; Degge, p. 213.

(*k*) Prid. p. 302.

176. In a suit in the Consistory Court of London in 1598, brought by the wives of two parishioners against churchwardens, the latter, in the name of themselves and the parishioners, challenged that to themselves the right belonged of placing and displacing of pews. Dr. Stanhope, the Judge, said:—"I thinck itt fitt, when there is occasion, that the Ordinarie be alwaies therein consulted, for continuance of his Jurisdiction, and for redressinge of any whoe shall find them selves agreved" (*l*).

177. In Rolle's Report of the case of *Brabin v. Trediman*, it is stated that a prohibition, even after an appeal to the High Court of Delegates, was granted for two reasons:—

1. Custom for the two churchwardens, with assent of twelve parishioners, to appoint for the appropriation of seats was reasonable.
2. That the grant by the bishop to his nominee was to him and his heirs, and not so long as he inhabits the parish (*m*).

178. It is stated in Gibson's Codex, on the authority of this case in Rolle's Reports, that a custom, time out of mind, of disposing seats by the churchwardens and major part of the parish, or by twelve or any particular number of the parishioners, is a good custom; and that if the ordinary interpose, a prohibition will be granted (*n*). He also refers to the case of *Colebach & others v. Baldwyn*, but that only goes to the extent that such a custom might be good, but not that it is good. And Watson cites this case as authority for his statement that the

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Should consult
the ordinary

Whether
wardens can
prescribe to
allot the
seats inde-
pendent of the
bishop.

Custom held
by Gibson to
be good.

Cited by Wat-
son.

(*l*) London, *Vicar-General's Books*, Vol. VIII. fol. lxi.

(*m*) *Brabin v. Trediman*, 2 *Rolle's Rep.* p. 24.

(*n*) Gibson's *Co.*, p. 222; *Colebach & others v. Baldwyn*, 2 *Lutwyche*, p. 1032.

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Grounds of
prohibition
as stated in
another report.

churchwardens may have the disposal of the seats independent of the ordinary (*o*); and Burn cites Watson (*p*).

179. The report of the same case by another reporter states the ground upon which the prohibition was granted very differently :—“ Prohibition granted because the grant to man and heirs is not good, and because excommunication was too great a punishment for those who interfered with bishop’s appointee.” (*q*). It seems probable that of the grounds for prohibition as stated in these two reports, the latter is correct as being in accordance with other decisions.

Contrary decision: parishioners cannot oust ordinary.

180. But the opinion that the churchwardens have no independent authority rests on much firmer ground. In a case where the churchwardens prayed a prohibition of the Bishop’s Court in the disposal of seats,—alleging that as they repaired they had a prescriptive right to deal with them,—the court refused the prohibition, saying that: “ Of common right the ordinary hath the disposal of all seats in the church, and of common right the parishioners ought to repair them. Then what have the parishioners done here to oust the ordinary of his jurisdiction? They have only said that they have repaired the seats at the parish charge, for which they have the easement of sitting in them, according to the disposal of the ordinary” (*r*).

Nor jostle out
his authority.

181. But where a prohibition was prayed, on a suggestion that time out of mind there had been a custom that the churchwardens, with the major part of the parishioners, may order the seats in the church, Chief Justice North said :—“ A prohibition shall not be granted

(*o*) Watson, p. 389.

(*p*) Burn’s *Ecc. Law*, 9th ed., p. 359 a.

(*q*) Brabin *v.* Tradum, *Popham*, p. 140.

(*r*) Greaterchy *v.* Beardsly, 2 *Levinz*, p. 241.

because the ordinary hath jurisdiction, and the churchwardens cannot jostle out his authority" (*s*).

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182. And this appears to have been had in view in the act of parliament passed in 1860 to facilitate the union of parishes in cities, towns, and boroughs (*t*). Under certain circumstances (after reserving sufficient for all the parishioners attending service), seats in the church might be provided for non-parishioners. Over these the churchwardens alone have control, since non-parishioners can have (unless by prescription) no rights in the church, and therefore cannot be entitled to appeal to the bishop; whereas it is expressly provided that the parishioners' seats are to be disposed of by the churchwardens under the bishop.

Appears in act
of parliament
in 1860.

183. Watson, referring to Pym and Gorwyn's case (*u*), says, that though it is said to have been held that seats in the body of the church are disposable by the parson and churchwardens, this must be understood of the usual cases, where there is no dispute about the matter, and the ordinary does not interfere because none complain (*w*). But according to other reporters of the same case, it was held that the ordinary had primarily the disposal (*x*),

Ordinary may
have had no
reason to
interfere.

184. And it has been held that parishioners cannot prescribe to dispose of pews exclusive of the ordinary, because the ordinary not acting, might be because there had been no occasion for his intermeddling; but that cannot vest the right in them who are only a corporation capable of goods, but not of inheritance (*y*).

Wardens are
not capable of
inheritance.

(*s*) *Langley v. Chute, Sir Tho. Raym.* p. 246.

(*t*) 23 & 24 Vict. c. 142, s. 27.

(*u*) *Pym v. Gorwyn, Moor*, p. 878.

(*w*) *Watson's Cl. Law*, p. 388.

(*x*) Corven's case, 12 *Coke*, p. 105; Garven and Pym's case, *Godb.* p. 200. These and *Pym v. Gorwyn*, reported by *Moor*, p. 878, are one case, but the names spelt differently by the different reporters.

(*y*) *Presgrave v. Churchw. of Shrewsbury*, 1 *Salk.* p. 166. Such prescriptive right void, *Com. Dig.* "Esglise" (G. 3).

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If all are satisfied
bishop
need not
interfere.

Parson has no
authority.

Neither clergy
nor vestry have
any right to
interfere.

But formerly
often done
where church
was rebuilt.

Right of
parishioners to
use of church.

185. As to the mere arrangements of seats, if the parishioners can settle that amongst themselves, and to their own satisfaction, and can agree about the expense, there seems but little necessity for the interference of the incumbent, the expense being that of the parishioners (*z*).

186. It was formerly held that the parson acted jointly with the churchwardens (*a*); but it has more recently been held that the incumbent has no authority in the seating and arranging the parishioners, beyond that of an individual member of the vestry, and that which his station and influence in the parish naturally give him (*b*).

187. And also that neither the clergyman nor the vestry have any right whatever to interfere with the churchwardens in seating and arranging the parishioners, as is often erroneously supposed. But at the same time the advice of the clergyman, and even sometimes the opinions and wishes of the vestry, may be fitly invoked by the churchwardens, and to a certain extent ought to have weight, or may reasonably be deferred to in this matter (*c*).

188. On rebuilding a church it used to be very common to leave the adjustment of the pews to the rector and churchwardens (*d*).

189. By the laws of King Canute, A.D. 1018, all people ought of right to assist in maintaining the church (*e*). Possibly upon this ground (for no other is suggested), it has been held that every householder has a right to call upon the parish for a convenient seat (*f*). Perhaps, had

(*z*) Tattersall *v.* Knight, 1 *Phill.* p. 233.

(*a*) Pym *v.* Gorwyn, *Moor*, p. 878; Ayliffe's *Par.* p. 484; Wood's *Inst.* p. 94.

(*b*) Tattersall *v.* Knight, 1 *Phill.* p. 233.

(*c*) Fuller *v.* Lane, 2 *Add.* p. 425; Pettman *v.* Bridger, 1 *Phill.* p. 323.

(*d*) Rogers *v.* Brooks & B., M. T., 24 Geo. III., *B. R.*, cited in Stocks *v.* Booth, 1 *T. R.* p. 432 n.

(*e*) Johnson's *Canons*, A.D. 1018, No. 29.

(*f*) Groves & R. *v.* Rector of Hornsey, 1 *Hagg. C. R.* p. 194.

the point been more specially under consideration in several judgments on pew law, the word "parishioner" would have been substituted for "householder;" since it is difficult to understand that every individual resident parishioner should not reasonably require a like accommodation to that granted to each richer family through its rate-paying head. All alike are Christians, and members of the church of the nation; and those of the poorer class presumably have less opportunity than their richer neighbours of attending divine service, and of obtaining instruction in religion. In fact, as stated in various judgments, and explicitly in the Report of the Parliamentary Commission, the object to be attained is the general accommodation of all the parishioners (*g*). C. A. P. II.
U. S. E.

190. Various decisions, probably for the sake of satisfying those who were most likely to be exigent (since the doctrine is not impressed with a stamp of high antiquity, and it appears to want any original legal basis), direct that though all are entitled to seats, yet a preference should be shewn for persons of the higher social standing in the parish; but still the rights of all are maintained, though not their equal rights which the early decisions emphatically uphold. The origin and gradual rise of this practice is shown fully in Book I., Chap. VI. of the present work. Subsequent doctrine of preference.

191. The only early case is that in 1493, when Fitz-walter sued on a writ of trespass for breaking and carrying away his seat in church; when, in deciding against the plaintiff, the court said that perhaps the Ordinary would order for the gentlemen places convenient for them, and for the poor other convenient places (*h*). That the places for Only early case probably refers to chancery.

(*g*) *Report of Com. on Eccl. Cts.*, 1832, 12mo. ed. p. 129.

(*h*) *Year Book*, 8 Hen. VII. 12.

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Parishioners' claim to seats according to rank; though all still entitled.

Long possession and other claims for consideration.

Doubt as to any allotment where there is not room for all the parishioners.

gentlemen were probably in the chancel will be seen on reference to Book I., Chap. VI. of the present work.

192. As laid down by Sir John Nicholl in the case of *Fuller v. Lane*, before referred to, the parishioners have a claim to be seated according to their rank and station; but, on the other hand, the churchwardens are not, in providing for them, to overlook the claims of *all* to be seated, if sittings can be afforded them. Accordingly, they are bound in particular not to accommodate the higher classes beyond their real wants, to the exclusion of their poorer neighbours, who are equally entitled to accommodation, though not to equal accommodation, supposing the seats not to be equally convenient (*i*).

193. The object to be attained is the general accommodation of all the parishioners, and in endeavouring to effect this due consideration must be paid to rank, station, number in family, long possession, and the particular state of the parish with respect to church room (*j*).

194. It will be seen, that by the common-law right, which is recognized and admitted in these decisions, all parishioners are equally entitled, and churchwardens are compellable by ecclesiastical censures to provide places for all. With the enormously increased, and still rapidly-increasing population, it has become an impossibility to provide seats for all, notwithstanding the number of additional churches annually consecrated. The question then arises, and has yet to be determined, whether churchwardens are bound to allot seats to some, to the seclusion of the rest of the parishioners, who would thereby be deprived of their original common-law right; and, if not bound, whether they can legally do so in the exercise of

(*i*) *Fuller v. Lane*, 2 *Add.* p. 426.

(*j*) *Rep. on Eccl. Cts.* p. 129.

their discretion, or under the immediate authority of the ordinary.

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195. It has been held that an inhabitant in a parish will probably have some permanent place for himself and his family to sit in. A person occupying a respectable station is not, each time he comes to church, to wait till the clerk or sexton allots a sitting to him (*k*). The idea of absolute freedom, such as once existed, had evidently been entirely lost sight of when this was said.

Parishioners
are not to
depend on
clerk or sexton
for seats.

196. Many decisions have been given, and dicta enunciated with reference to the powers and duties of churchwardens in the allotment of seats, which we proceed to mention in detail; but the right of *all* the parishioners to the use of the church must be borne in mind as a primary necessity, to which mode and powers of arrangement are subsidiary.

Arrangement
is a question
subsidiary to
the rights of all
the parish-
ioners.

197. Generally speaking, the churchwardens act more correctly in allotting vacant pews to such parishioners as have the best claim to them, in point of standing in the parish and general respectability, rather than to those who happen to succeed as tenants of the houses inhabited by the late occupiers of those pews (*l*).

Preference of
respectability
to successors
of former
occupiers.

198. Where the churchwardens, in exercise of their right, seated a person of respectability, who had a large and increasing family, and who inhabited one of the principal houses, and paid highly to the parish rates, it was held that this might properly be pleaded, in defence of their conduct (*m*).

Wardens may
plead several
reasons for
allotment.

199. Every man who settles as a householder has a right to call on the parish for a convenient seat, and if the

Additional
church room
must be pro-

(*k*) Morgan *v.* Curtis, 3 *M. & Ry.* p. 393.

(*l*) Fuller *v.* Lane, 2 *Add.* p. 438.

(*m*) Wyllie *v.* Mott & F., 1 *Hagg.* p. 40.

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vided when
there is not
room for all.

*Sed quare
now.*

Doubt whether
beginning to
build consti-
tutes pa-
rishionership.

Wardens may
be cited for
neglect or
excess.

Citation to
show cause is
a convenient
proceeding.

Answer of “no
vacancy”
would be a
sufficient
return.

It is impossible
always to
supply

church is insufficient to the due accommodation of the parishioners, it is highly proper it should be enlarged, as this is an inconvenience against which the parish is bound, and may be compelled by ecclesiastical censures, to provide (*n*).

200. At least, it was so held by Lord Stowell in 1793; but since the churchwardens were deprived by the Act for the Abolition of Compulsory Church Rates (*o*), of the power of raising funds, it cannot be supposed that their liability to provide sufficient church room for all the parishioners any longer exists.

201. It seems extremely doubtful whether a person begins to be a parishioner at the time of building a new house in the parish in which he intends to, and afterwards does, reside (*p*).

202. If the churchwardens neglect or go beyond their duty in the seating of the parishioners, they may be cited in the Ecclesiastical Court (*q*).

203. Where the churchwardens were cited to show cause why they had not seated, or caused to be seated, the plaintiff and his family in the parish church, according to his station and condition, he being a principal inhabitant and parishioner, and having duly applied to them to be so seated; the court thought the process had issued very properly, and that this was a convenient mode of proceeding (*q*).

204. It would be a sufficient return if the churchwardens were to aver that they were unable to comply with the request, on the ground of there being no vacancies (*q*).

205. If that return were made and duly established, it might be entitled to much consideration, as, in the enlarged

(*n*) *Groves v. Rect. of Hornsey*, 1 *Hagg. C. R.* p. 194.

(*o*) 31 & 32 Vict. c. 102.

(*p*) See *Fuller v. Lane*, 2 *Add. p. 432.*

(*q*) *Walter v. Gunner & D.*, 1 *Hagg. C. R.* p. 316.

population of many parishes, it may really not be in the power of the churchwardens to make immediate additions to the fabric, or to build chapels at once for the accommodation of the inhabitants (*r*).

206. But if there are existing pews improperly occupied, the mere offer of a permission to erect a pew is not a good return (*s*).

207. In exercising their duty the churchwardens must act with just discretion (*t*), and with due regard to any legal or equitable title (*u*).

208. Where church room is abundant, and the population is thin, persons of large property and large families may have large pews allotted to them, which afterwards may be taken away or diminished, when circumstances change; as if their families become reduced in number, or the church room, from increase of population, becomes more wanted (*v*). The subordination of individual convenience to that of the parish is thus clearly laid down.

209. A single parishioner filed a bill against church-wardens, alleging their intention to execute works in the church which would be injurious to himself as a parishioner in habit of attending divine service. The vestry then passed a resolution to abandon the works altogether. The plaintiff still persisted, but his motion, made afterwards, was declared to be improper, and was refused with costs.

[*Quære*, whether this is a private nuisance and such bill could be sustained (*x*.)]

210. The right being in the parishioners, it follows that Non-parishioners

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additional
church room
immediately.

Offer of leave
to erect a pew
is not suffi-
cient.

Wardens must
act discreetly
and legally.

Where room
is abundant
large pews may
be allotted.

Whether works
in the church
are nuisance to
parishioner?

(*r*) *Walter v. Gunner & D.*, 1 *Hagg. C. R.* p. 316.

(*s*) *Ibid.*, p. 317.

(*t*) *Wyllie v. Mott & F.*, 1 *Hagg.* p. 33.

(*u*) *Drury v. Harrison*, cited in *Parham v. Templar*, 3 *Phill.* p. 516.

(*v*) *Parham v. Templar*, 3 *Phill.* p. 523.

(*x*) *Woodman v. Robinson, Sim.*, 3 *N. S.* p. 204.

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can claim only
by prescription.

But some pro-
vision made
for them by the
Union of
Benefices Act.

Possession
gives no claim
against
ordinary or
wardens.

Mere posses-
sion good
against
disturbers.

non-parishioners and extra-parochial persons can have no possessory claim to seats in the body of the church, nor any title whatever except by prescription (*y*).

211. But where, under the Union of Benefices Act, a commission (appointed under the act) report that it is not expedient to carry into effect a proposed union, and that it would be expedient to afford improved accommodation for casual residents and non-parishioners, the bishop may, if funds be provided within two years, direct that one or more of the churches which had been proposed to be united, be re-seated accordingly, and after retaining sufficient for all the parishioners attending divine service the rest of the seats shall be free to non-parishioners in accordance with the report, but under the control of the churchwardens (*z*). A right, though of a peculiar and modified description, is thus granted to non-parishioners.

212. Claims grounded on possession cannot be maintained as against the ordinary, or churchwardens under him, for they may displace and make new arrangements (*a*).

213. An allotment of seats, by the authority of the churchwardens, gives a kind of possessory title, clearly good against a disturber; and it would even appear that an equally valid title may be acquired merely by an usurped occupation, at first with their concurrence; and afterwards, in the absence of objection from them, their consent will be presumed (*b*). But such a title in itself gives rise to serious litigation, and subsequently leads to an infinite number of claims to prescriptive titles (*c*).

(*y*) *Byerley v. Windus*, 5 *B. & C.* p. 1.

(*z*) 23 & 24 Vict. c. 142, s. 27.

(*a*) *Walter v. Gunner & D.*, 1 *Hagg. C. R.* p. 322.

(*b*) *Wyllie v. Mott & F.*, 1 *Hagg.* p. 31.

(*c*) *Report on Ecccl. Cts.*, p. 131.

214. Considering the weight which has, however, been attached to a possession under an allotment by the churchwardens, they ought not, without cause, to displace persons in possession; and if they do, the ordinary would reinstate them; the possession has its weight, and the ordinary would give a person in possession *ceteris paribus*, the preference over a mere stranger (*d*).

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And has weight with wardens and ordinary; and gives preference.

215. It being the clear law of this country that the use of pews belongs to the parishioners, and pews are allotted to them by the churchwardens subject to the control of the ordinary, it follows that a seating of this kind by churchwardens does not give a permanent and exclusive right and is not like a faculty, because it is liable to alterations as the circumstances of the parish may require (*e*).

But no permanent right.

216. It was also held, that though the faculty (with which the right had commenced) had expired, and though the party had no prescriptive title, yet so long as he lived and continued an inhabitant of the parish, in his present or some other respectable house, he had personally such a possessory right, as, except on very strong grounds of paramount necessity arising from an urgent want of accommodation for other persons, it would be improper to disturb (*f*).

Possession continued to grantee of expired faculty whilst in parish.

217. But (apparently), lest it should breed a prescriptive right, the court recommended, that if there were not very strong reasons to the contrary, the churchwardens should not continue the pew to the occupier of the late faculty holder's house (*g*).

But not to his successors in the house.

218. Still the court will not go out of its way to confirm possession, for this might be attended with injurious conse-

Court will not usually confirm possession to them.

(*d*) *Pettman v. Bridger*, 1 *Phill.* p. 324.

(*e*) *Parham v. Templar*, 8 *Phill.* p. 523.

(*f*) *Ibid.* p. 733.

(*g*) *Ibid.* p. 736.

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quences to the parish, and it would countenance the idea, which rather ought to be checked, that the pew is specially appropriated to the house (*h*).

Court confirming a displacement need not adopt wardens' allotment.

219. Therefore in a suit for perturbation of seat, if it appear that the churchwardens have acted properly in displacing the plaintiff, the court will dismiss them; but will not proceed to confirm the possession of the person seated by them, as it does not form part of the question before the court (*h*).

Possession implies due allotment.

220. A possessory right to a pew is sufficient to maintain a seat against a mere disturber; the fact of possession implies either the actual or virtual authority of those having power to place (*i*).

Six years insufficient against disturber.

221. But six years' possession is not sufficient against a mere disturber (*k*).

Non-parishioners' possession for 100 years gives no right.

222. And a possession of upwards of one hundred years was held not to give to the Society of Staples' Inn, which is extra-parochial, even a possessory title to certain pews in the church of St. Andrew, Holborn (?).

Twenty years and upwards sufficient.

223. And where a person set up a possessory right in a pew that his grandfather had an estate and pew for twenty years and that he succeeded to it, that right was held good against a mere disturber (*m*).

As against wardens may rest on possession, acquiescence, and suitability.

224. On the one hand it was held that a suit against the churchwardens for perturbation of seat may rest on a possessory title, and acquiescence of former churchwardens, and on the fitness of the party, from the number of his family or amount of property, to occupy it; supposing that the churchwardens have acted arbitrarily (*n*).

(*h*) *Wyllie v. Mott & F.*, 1 *Hagg.* p. 41.

(*i*) *Pettman v. Bridger*, 1 *Phill.* p. 324.

(*k*) *Walter v. Gunner & D.*, 1 *Hagg. C. R.* p. 322.

(*l*) *Byerley v. Windus*, 5 *B. & C.* p. 1.

(*m*) 2 *Rolle's Abr.* p. 288.

(*n*) *Wyllie v. Mott & F.*, 1 *Hagg.* p. 40.

225. And on the other hand that a bare possession can never give a right of action for the disturbance of a pew, because every parishioner has a right to go into the church. If a person does not take the trouble to apply to the ordinary for a faculty, or to the minister and churchwardens to allot him a seat, he cannot maintain an action against a wrong-doer. For if bare possession were allowed to be a sufficient title, it would be an encouragement to commit disorders in the church (*o*).

226. A person having permission from the churchwardens to sit in a pew temporarily, and in order, by keeping possession for a future tenant, to carry into effect the conditions of sale of a house, to which the pew had been attached for ninety-nine years under a faculty since expired, was held to have no possession on which he could bring a suit for perturbation against a mere intruder, such permission being illegal, as confirming the sale of the pew (*p*).

227. In one case it was said that a possessory right may be good as against a disturber, although the possessor admitted his title to have been acquired by purchase (*q*). Title even by purchase might suffice.

228. And, on the contrary, it was said in another case that a title must not be pleaded as founded on purchase, hiring, and private bargain, all which are illegal and void (*r*). Other decision to the contrary.

229. But a possessory title to a seat in a church, acquired by purchase from another individual twenty years previously, is a sufficient ground for resisting the grant of a faculty to another claimant (*s*). Possession gives a standing to oppose grant of faculty.

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Bare possession will not ground an action for disturbance.

- (*o*) Stocks *v.* Booth, 1 *T. R.* p. 430.
- (*p*) Blake *v.* Usborne, 3 *Hagg.* p. 735.
- (*q*) Wilkinson *v.* Moss, 2 *Lee*, p. 260.
- (*r*) Wyllie *v.* Mott & F., 1 *Hagg.* p. 87.
- (*s*) Wilkinson *v.* Moss, 2 *Lee*, p. 259.

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Burthen lies
on disturber to
prove his right.

Possessor dis-
turbed should
bring suit for
perturbation.

Whether seats
to be kept
vacant.

As to right of
clergyman's
family to a
seat.

Payment gives
no title to
pews.

230. The burthen of proof lies upon the disturber to show that he has been placed in the pew by the actual or virtual authority of those having power so to place: or he must justify his disturbance by showing a paramount right—that is, a right paramount to the ordinary himself, as in the case of a faculty by which the ordinary has parted with the right (*t*); or a prescription and such immemorial usage as presumes the grant of a faculty.

231. A person in asserting his right to a seat should not endeavour to gain possession of the pew by forcible means, as, for instance, by wrenching off the lock, but he ought to sue the occupier for a "*perturbation*" (*u*).

232. Doubts have been often entertained whether in the event of any persons to whom seats are allotted by the churchwardens, not being present and occupying them at the beginning or at any specified part of divine service, the seats can be made available for other persons during that, or the remainder of that service; but the question seems never to have been tried.

233. It was said by the court that where the clergyman is in possession of sittings for his family in an ancient parish church, he appears to have such a possessory title, that neither the vestry nor any individual can molest or disturb him (*x*). But it is by no means obvious upon what authorities or reason this dictum is based.

234. Payment in any form gives no right: as pews in a parish church are not the subjects of private property, no possessory right can be founded on purchase, hiring, or private bargain; as by the established principles of law, no title to pews can rest on any such foundation (*y*).

(*t*) *Pettman v. Bridger*, 1 *Phill.* p. 324.

(*u*) *Woollocombe v. Ouldrige*, 3 *Add.* p. 3.

(*x*) *Spry v. Flood*, 2 *Curt.* p. 359.

(*y*) *Wyllie v. Mott & F.*, 1 *Hagg.* p. 37.

235. Neither the parishioners by their consent, nor the ordinary, nor any power but the legislature, can deprive the inhabitants of their general right; and such acts as demanding money for pews are contrary to the law of the land (z).

236. It is clearly the law that a parishioner has a right to a seat without payment; and it is a wild conceit that there can be such use made of pews as of villas, or other common property (a).

237. The practice of letting pews, and applying the rent to ease the parish rate, or indeed for any other less specious pretence, is a practice which has been constantly reprehended by the ecclesiastical courts as often as it has been set up (b).

238. It is clear that the practice under the sanction of a vestry, of letting and selling of pews would be illegal and null, however much custom, in contravention of the law, may have prevailed in the parish. An act of parliament alone can render such a sale legal (c).

239. Where the churchwardens and vicar, in order to pay the expenses of new pews, had assigned pews to certain persons, their heirs, executors, &c., for sums specified, the court held this to be illegal, and that the churchwardens might seat the parishioners in those pews as if no such order had been made (d).

 CAP. II.
USE.

Pew-rents are contrary to law.

Pews cannot be treated like villas.

Letting pews always reprehended by the court.

Practice, under sanction of vestry, is illegal.

Assignment (for money) by vicar and wardens confers no rights.

(z) *Astley v. Biddle*, 1 *Hagg. C. R.* p. 318, n.

(a) *Walter v. Gunner & D.*, 1 *Hagg. C. R.* pp. 317 & 319.

(b) *Walter v. Gunner & D.*, 1 *Hagg. C. R.* p. 318; *Wyllie v. Mott & F.*, 1 *Hagg.* p. 33.

(c) *Craig v. Watson*, unpub.: citing *Stevens v. Woodhouse*, 1 *Hagg. C. R.* p. 318 *in notis*; and *Walter v. Gunner & D.*, reported *Ibid.*; and *Wyllie v. Mott & F.*, 1 *Hagg.* p. 37.

(d) *Fuller v. Lane*, 2 *Add.* p. 427; *Churchw. of Kensington v. Trier Consist.* 1721, cited 1 *Hagg. C. R.* p. 318, n.; *Stevens v. Woodhouse, Arches*, 1792, cited *Ibid.*

**CAP. II.
USE.**

Gives no power
of sale.

Court cannot
inquire into
terms between
parishioners
and contribu-
tor.

Custom to sell
is illegal.

Wardens
directed not to
sell the seats.

Though the
payment be
altogether
illegal,

240. A vestry granted for 10*l.* a pew to a man and his assigns, appropriated to such house as he should build. He assigned to another, who applied for a faculty. The court disallowed the applicant's claim to a pew, and ordered him to be placed in the common part of the church (*e*).

241. The court has no authority to institute or control any inquiry as to what private understanding may have been come to between the parishioners and a contributor to the enlargement of a church; or whether the conditions have been mutually fulfilled or not, or what relation his subscription may bear to the other subscriptions (*f*).

242. In a suit of perturbation, where the party pleaded purchase and the custom of the parish, the court rejected the libel and held the custom illegal (*g*).

243. A parishioner resident for forty years, and occupant of a pew during the same time, was required by the churchwardens to pay a rent for it, alleging such to be the custom; and on his refusal, one of them placed another person with him in the seat. A suit for "perturbation of seat" was brought against this churchwarden, and the court thought he had made an improper use of his authority, and directed the churchwardens should not sell the seats (*h*).

244. In a libel for perturbation of seat, an article alleged that on the building of a gallery the churchwardens and vestry had sold the seats, and that the pews in question had been purchased and paid for nearly twenty years before. The court held that this was alleging what from beginning to end was an illegal transaction,

(*e*) *Harford v. Jones*, Consist. 1724, cited in 1 *Hagg. C. R.* p. 318, n.

(*f*) *Craig v. Watson*, unpub.

(*g*) *Hole v. Burnet*, Consist. 1740, cited 1 *Hagg. C. R.* p. 318, n.

(*h*) *Astley v. Biddle & R.*, cited 3 *Phill.* p. 517, and 1 *Hagg. C. R.* p. 318, n.

and could furnish no ground of title; the money paid could only be considered as *voluntary* contributions and subscriptions towards the building. It may be a reason in the discretion of the churchwardens for seating these persons, and such seating may give a possessory right sufficient against a mere disturber; but if the court were to admit the pleading it would lend a countenance to a proceeding contrary to law (*i*).

CAP. II.
USE

it may influence wardens' discretion and so obtain possessory title.

245. Such sale and purchase do not improve, they rather operate against the claim; because, if a party seeks to found his title on an illegal origin, it goes far to justify his removal (*k*).

But operates against title claimed as against the wardens.

246. It is now distinctly held that the churchwardens may remove persons, originally placed in seats, or their descendants; but if they do so capriciously, or without just ground, the ordinary will control and correct them (*l*).

Wardens may alter possession but not capriciously.

247. If the churchwardens interfere to take away a seat, and, *à fortiori*, to take it to themselves, the ordinary will interfere, as by a suit of perturbation of seat, although it were not originally meant for that purpose (*m*).

Nor especially if for their own advantage.

248. In many churches their power over seats is never exercised by the churchwardens, and particular houses and families are allowed to have permanent pews (*n*).

Such power is often not exercised.

249. In such cases the power of removal is not to be exercised, except in a case of strong necessity; but such power, in order to provide for the convenient attendance of the other parishioners upon Divine Service, ought not to be taken away from the churchwardens (*o*).

And only in case of necessity for convenience of others.

(*i*) *Wyllie v. Mott & F.*, 3 *Phill.* 523.

(*k*) *Wyllie v. Mott & F.*, 1 *Hagg.* p. 30.

(*l*) *Parham v. Templar*, 3 *Phill.* p. 523.

(*m*) *Drury v. Harrison*, cited in *Parham v. Templar*, 3 *Phill.* p. 516.

(*n*) *Morgan v. Curtis*, 3 *M. & Ry.* p. 394.

(*o*) *Wyllie v. Mott & F.*, 1 *Hagg.* p. 41.

CAP. II.
USE.

And still more from the necessity of subsequent times.

And as a provision against the growth of prescriptive right.

Practice of families being seated together.

To avoid mixing different families.

250. Although it was the opinion of Lord Stowell that the churchwardens of their own authority could not interfere with a possessory right, without reference to the ordinary, yet Dr. Lushington, in a subsequent case, alluding to this opinion, said, that perhaps, later cases may have extended their power, and the necessity of the times may have allowed a different practice to grow up, and it may be competent to them to act without any authority of the ordinary previously conferred (*r*).

251. In fact, it seems desirable that the occupancy of pews should be altered from time to time, according to circumstances, as the best provision against the birth and growth of those prescriptive rights to pews, as *in* certain families, or *annexed* to certain messuages, the existence of which is so injurious to the general interests of the parishioners (*s*).

252. By habit, it no doubt becomes a matter of feeling with many to perform their religious duties by the sides of their wives and families, and, in some respects, it is a matter of practical benefit, so far as may be, to indulge this feeling. Parents in that case are more attentive, as setting an example to their children, who are likely to be, and, undoubtedly, in many instances are, benefited by that example. As a matter, therefore, both of feeling and practical advantage, families should be seated together in church, where this can be done (*t*).

253. Thus, if the population be increasing, and the church room already insufficient, and there be a pew capable of accommodating seven or eight persons, and the family using it be reduced to one or two, it may be

(*r*) Spry *v.* Flood, 2 *Curt.* p. 357.

(*s*) Fuller *v.* Lane, 2 *Add.* p. 438.

(*t*) *Ibid.* p. 434.

proper, either to remove such family altogether, or, at least, to seat some other persons in the same pew (*u*).

254. In a case decided in 1793, when it was suggested that the churchwardens might put different families into the same pew, as the pews were not appropriated by any faculty from the ordinary, and that these pews would afford more sittings, the court held, that there was nothing so extravagant in an addition which it had been proposed to make to the church, as to induce the court to adopt in preference to such addition a proposal to place individuals of different families into the same pews, which might produce contention and inconvenience (*x*).

255. But in 1832 it was decided that, if there was not any one large family of long standing and respectable station in the parish who wanted such a pew as that in question, the churchwardens might place in it two or three families, giving them sittings in proportion to their numbers; for in a dense and increasing population a pew may be allotted in portions and sittings, if the exigency of the parish renders such an exercise of discretion expedient and proper (*y*).

256. And without any interference on the part of the churchwardens any temporary possessory right ceases of itself under certain circumstances. Thus, there can be no doubt that a mere possessory right ceases when the use and occupation cease (*z*); and when a man quits the parish, his right to use a seat is at an end, because he has ceased to be a parishioner (*a*), and therefore if he per-

CAP. II.
USE.

Formerly held
that different
families should
not be put in
one pew.

But now
otherwise.

Possessory
right ceases on
abandonment
or on leaving
the parish.

(*u*) *Wyllie v. Mott & F.*, 1 *Hagg.* p. 41.

(*x*) *Groves v. Rect. of Hornsey*, 1 *Hagg. C. R.* p. 194.

(*y*) *Blake v. Usborne*, 3 *Hagg.* p. 734.

(*z*) *Woollocombe v. Ouldridge*, 3 *Add.* p. 7.

(*a*) *Byerley v. Windus*, 5 *B. & C.* p. 18; *Fuller v. Lane*, 2 *Add.* p. 427; *Parham v. Templar*, 3 *Phill.* p. 523.

CAP. II.
USE.

severes and sits there in spite of the churchwardens, he is an intruder.

Pew then reverts to parish.

257. The occupier of a pew, ceasing to be an inhabitant of the parish, cannot let the pew with, and thus annex it to his house, but it reverts to the disposal of the churchwardens (*b*).

Custom for owners of houses to let appurtenant pews is illegal.

258. A custom was pleaded that pews are appurtenant to certain houses, and are let by the owners to persons who are not inhabitants of the parish; it is evidently illegal and cannot be supported (*c*).

Otherwise it would become an annexation.

259. If a person letting his house from year to year were permitted to transfer the possession of a pew to each succeeding tenant, this would amount in effect to an annexation (*d*).

All previous right ceases.

260. And if such persons return to the parish and take possession of the pew, as a matter of right, they are mere intruders, and the churchwardens may remove them (*e*).

Liable to defeazance by the ordinary at any time.

261. Such a possessory right was originally liable to defeazance by the ordinary, and by the churchwardens, as officers of the ordinary, even during the claimant's continuance in the parish. And it ceased and determined *ipso facto*, upon his ceasing to be a parishioner, and the pew reverted to the parish at large, and became as liable as any other pew in the church to the disposal of the ordinary, and of the churchwardens, as his officers (*f*).

It ceases by a quasi abandonment.

262. Where a person who had sat in a pew for many years, was dispossessed of her sittings by another person, she withdrew from the pew altogether, and sat in a differ-

(*b*) *Wyllie v. Mott & F.*, 1 *Hagg.* p. 39.

(*c*) *Walter v. Gunner & D.*, 1 *Hagg. C. R.* p. 317.

(*d*) *Wyllie v. Mott & F.*, 1 *Hagg.* p. 40.

(*e*) *Parham v. Templar*, 3 *Phill.* p. 524; *Byrley v. Windus*, 5 *B. & C.* p. 18.

(*f*) *Fuller v. Lane*, 2 *Add.* p. 424.

ent part of the church; although she all along dissented, yet she did not enter any formal protest, or institute any formal complaint for a year, when, upon her application for sittings elsewhere being refused by the churchwardens, she asserted her right to the pew in question. But it was held that her possessory right to the sittings had been lost by this *quasi* abandonment (g).

263. If a person having possession of a pew obtains the grant of a faculty for one elsewhere, his previous right is thereby determined. Determined by grant of faculty for another seat.

264. So when a person is indulged with a gallery, the parish ought to compel him to exchange his own pew for that accommodation. For he ought to be required either to go back to his own proper pew, or give it up to the parish (h). Or a gallery.

265. And under the Church Building Act of 1856, where a resident within any new parish or district formed under the provisions of the Acts of 1845 and 1844, has claimed and had allotted to him sittings in the church of such new parish, he thereby surrenders an equal number of sittings in the original parish church which he may have possessed under any other title than faculty or act of parliament (i). On obtaining allotment in church of new parish or district.

266. The court would be unwilling to give currency to an opinion that a parishioner, when a pew is vacant, is justified in stepping into and occupying it (*i.e.* permanently) without legal authority. The successor of persons so acting ought not, therefore, to be continued in the pew, though he ought to be properly seated (k). Parishioner has no right to take possession of a vacant seat.

267. And as the churchwardens have a right to exercise a reasonable discretion in directing where the congregation Wardens remove intruders and

(g) *Woollocombe v. Ouldridge*, 3 *Add.* p. 3.

(h) *Walter v. Gunner & D.*, 1 *Hagg. C. R.* p. 319.

(i) 19 & 20 Vict. c. 104, s. 5.

(k) *Blake v. Usborne*, 3 *Hagg.* p. 736.

CAP. II.
USE.use necessary
force.May be con-
demned in
damages for
trespass, if
guilty of
unnecessary
force.Person may be
removed out of
church if likely
to interrupt
the service.

shall sit, they may remove persons intruding into seats already appropriated. But they must use no unnecessary force and be able to effect the removal without public scandal, or disturbance of divine service (?).

268. A. claimed a right to sit in a particular pew in his parish church, in respect of a house and farm which he occupied there. B., another inhabitant, also claimed an exclusive right to the same pew for himself and family. The churchwardens had been appealed to on various occasions, and had given notice to A. that the pew belonged to the B. family. The churchwardens, on being applied to by B., went to the pew and desired A. to quit it, which he refused to do, upon which one of the churchwardens laid his hand on him, with a view to force him out, upon which A. rose and walked away. The congregation were assembling, but the clergyman had not entered the church. A. brought an action of *trespass*, for an assault and battery against this churchwarden; and the jury, thinking that some unnecessary force had been used, though the evidence on that subject was contradictory, found a verdict for the plaintiff, with 5*l.* damages (*m*).

269. A parish clerk having been dismissed from his office by the rector, though irregularly, and another appointed, the former entered the church before divine service had commenced, and took possession of the clerk's desk by climbing into it from an adjoining pew. It was held by the Court of Exchequer that the churchwardens were justified in removing him from the clerk's desk, and also out of the church, if they had reasonable ground for believing that he would offer interruption during the celebration of divine service (*n*).

(*I*) Reynolds *v.* Monkton, 2 *M. & Rob.* p. 385.

(*m*) *Ibid.* p. 384.

(*n*) Burton *v.* Henson, 10 *M. & W.* p. 105.

PART B.

PARISH CHURCHES AND CHAPELS OF EASE.

DIVISION b.

RECTOR'S SEAT.

b. RECTOR'S
SEAT.

270. THE rector is entitled to the chief seat in the chancel (*a*). Rector has
chief seat in
chancel.

271. The distinction in the appropriation of the nave and aisles to the congregation, and the chancel for the celebration of divine service, is very apparent. The parishioners generally are permitted to use the chancel at specified periods and for a specified purpose. The rector or incumbent has, from the earliest period, had his special place there. Nave for
people, chancel
for clergy.

272. This fact is sufficient to account for his right to the chief seat in the chancel. But, besides this, he has a further and independent claim in respect to his keeping the chancel in repair, as he is bound to do (*b*). Rector repairs
chancel.

273. On the former ground the vicar had the right of sitting there before the Reformation, and consequently must retain this right still, unless it appear that he has quitted it (*c*). Vicar also has
a seat in the
chancel.

274. As a vicar is one who is substituted for the rector to serve the church (the tithes being in the hands of a Also per-
petual curate.

(*a*) Hall *v. Ellis, Noy*, p. 133 (pub. 1656); Clifford *v. Weeks*, 1 *B. & A.* p. 506.

(*b*) Hall *v. Ellis, Noy*, p. 133.

(*c*) Burn's *Eccl. Law*, Fraser's (7th) ed., 1, p. 363; Johns. p. 269.

b. RECTOR'S
SEAT.

But that has
been ques-
tioned.

Doubt seems
limited to his
family.

Incumbent's
right can
scarcely be
doubted.

Lay improp-
riator has
rector's right,
unless other-
wise by pre-
scription.

Doubt as to
action for
disturbance.

lay rector), so a perpetual curate stands in the vicar's place (*d*).

275. But it has been doubted whether a perpetual curate has a right to a seat in the chancel; for perpetual curates were formerly mere stipendiary curates, and had no vested rights till long after the time of legal memory (*e*).

276. These observations as to the rights of perpetual curates were made only *ex majori cautela*, and not as giving any opinion as to what these rights were (*f*), and appear to apply rather to seats for the clergyman's family than for his own use.

277. In fact, one would think it scarcely open to doubt that the incumbent of the church, whether he be styled rector, vicar or perpetual curate, must possess such a right, in order to enable him to perform the most important and essential part of his duties in the celebration of divine service: it is not reasonable to suppose that the seat would be possessed by him for occupation simply as one of the congregation, or that it could be recognized as permissible for him to look on while some one else performs his highest function and duty.

278. A lay proprietor, it is said, has the right which a rector would have had, to the chief seat in the chancel (*g*), and *per consequens*, his farmer; but by prescription another parishioner may have it (*h*).

279. It has been doubted whether an action at common law cannot be maintained for a disturbance of a seat in the chancel, as it may be the freehold of an individual (*i*).

(*d*) Doe *d.* Richardson *v.* Thomas, 9 *A. & E.* pp. 571, 573.

(*e*) Spry *v.* Flood, 2 *Curt.* p. 358.

(*f*) Ibid. p. 360.

(*g*) Ayliffe's *Parer.* p. 486; Gibson's *Co.* p. 222; 1 Burn's *Eccl. Law*, p. 363.

(*h*) Hall *v.* Ellis, *Noy*, p. 133.

(*i*) Mainwaring *v.* Giles, 5 *B. & A.* p. 361.

280. A rule has grown up, and is adopted in the Church Building Acts, that the rector's family are also entitled to a pew in the chancel. And, it is said, that where the parson repairs, the vicar claims the right on behalf of his family, as well as the right to give leave to bury there and receive a fee for his permission (*k*). It is difficult to understand on what ground such a custom, for the incumbent's family to possess a pew in the chancel, can be founded. History shows, positively, that it did not exist at any early period.

281. As regards the family of a perpetual curate it was held, that there was great difficulty in assenting to the proposition that they have a common-law right to sittings in the church. A perpetual curate may be a mere stipendiary curate, the impropriation being *in utroque jure*, for the monasteries had cure of souls, and performed the duties of the church by stipendiary curates; and since the suppression of these monasteries, the proprietor might have the complete incumbency (*l*). It was not till A.D. 1756 that Lord Hardwicke interfered to protect the rights of the curates; but these were not common-law rights; so that if it be meant that a curate is to be protected in his title and sittings for his family by common-law right, as having existed from the time of Richard I., the court would have great difficulty in assenting to such a doctrine (*m*).

**b. RECTOR'S
SEAT.**

Rector's family
entitled under
the Church
Building Acts,

Whether the
family of a
perpetual
curate are
entitled is
doubtful.

(*k*) Johnson's *Cl. Va. me.*, p. 269; followed by 1 Burn, p. 363.

(*l*) Duke of Portland *v.* Bingham, 1 *Hagg. C. R.* p. 157.

(*m*) Spry *v.* Flood, 2 *Curt.* p. 358.

PART B.
PARISH CHURCHES AND CHAPELS OF EASE.

DIVISION C.
PRIVATE SEATS.

CHAPTER I.
FACULTY.

**CAP. I.
FACULTY.**

The grant of a 282. A **FACULTY** or licence is a grant made by the consistory court of the bishop, held before his chancellor, commissary, or vicar general, for all ecclesiastical causes within his diocese (*a*).

Faculties are public or private.

283. Faculties appear to be of two descriptions:—
1st. Those which are public in their nature, and have for their object the benefit of the parishioners generally.
2ndly. Those which are private, and are for the exclusive benefit or convenience of an individual (*b*).

Public faculties.

284. Of the first sort are faculties for pewing a church, erecting a gallery or organ, making a church path, building a vestry-room and the like (*b*). Also for repairing, or enlarging, or rebuilding a church.

Private faculties.

285. Of the second sort are those which are granted to secure to some individual or family the exclusive use of a pew or vault, or to give permission for the erection of a monument or tablet, the removal of a corpse to another place of burial, or for privileges of a similar sort (*b*).

(*a*) Comyn's *Dig. "Courts,"* N. 6.
(*b*) Rogers' *Ecccl. Law,* p. 433.

286. Different considerations affect a grant for the purpose of building an aisle to those which must be considered in respect to a grant of a seat elsewhere (*c*). In the one case the parishioners' normal right to the use of the church in common is not affected; there is an addition to the church by which no one is damnified, and some little additional room is gained by the removal of the family which builds the aisle. In the other case a benefit is purported to be granted to one parishioner to the exclusion, and so far to the injury of the others; a point which merits much consideration.

CAP. I.
FACULTY.

Considerations affecting grant of faculty for an aisle, different to one for seat elsewhere.

287. As regards a faculty for an aisle, no doubt has been suggested that the bishop has full power, and should any gentleman, having a house in the parish, build a new aisle with the consent of the clergyman, patron, and ordinary, and have a faculty from the bishop to hold the same to the use of him and his family, to bury their dead in the aisle, and also to sit there for hearing divine service, on condition constantly to repair it, this faculty would give him a good title to the aisle (*d*). But there is a wide difference between seats in the body of the church and those in a minor chancel or chapel (*e*).

Unquestionable right to grant faculty to build and appropriate an aisle.

288. In the event of abandonment of his rights by the holder of a faculty, the seats would naturally revert to the disposal of the churchwardens and ordinary.

On abandonment of faculty rights, seats revert to parish.

289. As regards a faculty of the second description the doubt which has been suggested as to the right or duty of the bishop to allot seats to some individuals in preference to the rest in building admittedly for the use of the parishioners in common, applies with double force to a more permanent appropriation by faculty.

Doubt as to power of granting faculty to injure of other parishioners.

(*c*) *Fuller v. Lane*, 2 *Add.* p. 427.

(*d*) *Prid.* p. 299.

(*e*) *Chapman v. Jones*, *L. R.*, 4 *Ew.* p. 281.

CAP. I.
FACULTY.

It requires
cession of
their rights.

And then some
consideration
is necessary;
but none given.

And parish-
ioners cannot
be by any one
deprived of
their rights.

Appropriation
to individuals
seems un-
reasonable.

290. It would seem that in order to a valid grant of a seat to an individual (for it is in the nature of a grant rather than a licence) the rights of the other parishioners must be ceded. The churchwardens consented to the grant, in some of the early cases, but it could scarcely be contended that in virtue of their office they had authority to cede the rights of the whole parish for a time, and still less for a permanence; and clearly the ordinary could have no inherent authority to cede the rights of the parishioners.

291. Nor could the rights be ceded, except for a consideration, and none is suggested. It cannot be the building of the pew, for that is no consideration received by the parish, but merely an act for the individual's own benefit; nor repairs, for they are a subsequent act, and only for the same object. Nor residence, for that exists equally before and after the application for the faculty. Nor can it be a pecuniary consideration; for even where, as in the case of contribution towards the erection of a gallery, money is paid, it is not as a consideration for a faculty, but as a donation towards the building.

292. Further, it is held that neither the parishioners by consent, nor the ordinary, nor any power but the legislature (which can overrule all previously existing law) can deprive the inhabitants of a parish of their general right; and attempts to do so would be contrary to the law of the land (*h*).

293. On the other hand, an appropriation to a family seems contrary to reason, for if the ordinary may appropriate one seat to a house, he by the same reason may appropriate all the seats in the church to several houses, and so no room would be left for the other inhabitants (*i*) who have equal rights to the use of the church.

(*h*) *Steevens v. Woodhouse & B.*, 1 *Hagg. C. R.* p. 318, n.

(*i*) *Watson*, p. 385.

294. Watson especially doubts whether the ordinary *can* make a grant to bind posterity, as he cannot make a grant to a house (*k*)—persons only, and not things, being capable of grants (*l*). For it was said by Lord Coke, that in the body of the church a pew cannot belong to a house (*m*).

CAP. I.
FACULTY.

Especially as
to grants to
a house.

295. If it be said that the grant may be good to the present possessor of a house, and to the persons who in after time shall be possessors of such house, as a privilege annexed to that house; yet such a grant appears as unreasonable as if it had been made to a person and his heirs (*n*).

To successive
occupiers of a
house appears
unreasonable.

296. For if by the ordinary's grant, it may belong to a house, it must belong to the owners of the house, and must go with the house to a person and his heirs; and so a grant to the present and future possessors of a house, and to a man and his heirs, will have the same inconvenience (*n*).

And as incon-
venient as if to
a man and
heirs.

297. For the owner of a house may remove into another parish, and have no tenant, and yet retain the seat, if it may by such grant belong to a house (*n*).

House may be
untenanted.

298. It became, however, the practice of the ordinaries through their courts to grant such faculties, and their right to do so has not been questioned at law; and we proceed with the points which have been determined respecting them. It will appear that many such grants were void *ab initio*, and others partially void.

It became the
practice, and
without ques-
tion.

299. There does not appear any instance in modern times of an annexation of a pew by faculty to a house or

No modern an-
nexations to
houses.

(*k*) Watson, p. 392.

(*l*) Haynes' Case, 12 Coke, p. 113.

(*m*) 1 Brown. & Gold. p. 45.

(*n*) Watson, p. 385.

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Though apparently essential to a faculty for seats.

If annexed goes with house.

Landlord cannot restrain tenant from its use.

Nor retain it to himself, nor let it.

Appropriation to families

messuage (*q*) ; and a faculty of this description (obtained by surprise) was revoked (*r*).

300. And yet such an annexation would seem in certain cases to be essential to the validity of the appropriation by faculty. Recently it was held in the Arches Court, that a faculty empowering certain parishioners to set up a gallery at the west end of a church, with seats for themselves, and their families, but not assigning a seat to any particular house, is bad (*s*) ; so far, at least, as to the grant of any exclusive rights.

301. If by faculty a pew be annexed to a messuage, it may be transferred with the messuage to another person (*t*).

302. And if a seat be appurtenant to a house, the owner of the fee cannot restrain his tenant from the use of it, because the seat is for the benefit of the house ; namely, for the inhabitants of the house, and not for the benefit of the owner, if he cease to inhabit it (*u*).

303. Thus, where a person let his house and lived out of the parish, but covenanted with his tenant that he should not occupy the pew, in order that it might be let to others, this was held to be clearly illegal ; for if a pew is rightly appurtenant, the occupancy of it must pass with the house, and individuals cannot, by contract between themselves, defeat the general right of the parish (*x*).

304. It is also very proper that the faculty should not

(*q*) *Butt v. Jones*, 2 *Hagg.* p. 423 (A.D. 1829).

(*r*) *Ibid.* p. 426.

(*s*) *Craig v. Watson*, unpub., citing *Chapman v. Jones*, 4 *Ew.* p. 280, as confirming the existing law on this subject.

(*t*) *Stocks v. Booth*, 1 *T. R.* p. 431; *Wyllie v. Mott & F.*, 1 *Hagg.* p. 39.

(*u*) *Byerley v. Windus*, 5 *B. & C.* p. 19; *Fuller v. Lane*, 2 *Add.* p. 428.

(*x*) *Walter v. Gunner & D.*, 1 *Hagg. C. R.* p. 319.

appropriate the seats to the messuages, but rather to families resident in the parish (*y*).

305. Great inconvenience has been found to arise from pews having been so annexed; for the houses become dilapidated; the inhabitants of them fail in their circumstances; new houses are erected, and the occupiers of them want pews (*y*).

306. The right to sit in a pew may be apportioned; and, therefore, where by a faculty a pew was granted to a man and his family for ever and the owners and occupiers of his dwelling-house, and the dwelling-house was afterwards divided into two; it was held, that the occupier of one of the two (constituting a very small part of the original messuage) had some right to the pew; and, in virtue thereof, might maintain an action against a wrong-doer (*z*). It may be presumed that in case of a part of the pew being abandoned, the right to such part would not survive to the owner of the other part; their tenure would be more in the nature of tenants in common than of joint tenants.

307. No title can be good, either upon prescription or upon any new grant by a faculty from the ordinary, to a man and *his heirs*; for the pew must always be supposed to be held in respect of the house, and will, therefore, go with it to each successive inhabitant (*a*); otherwise when the person goes to dwell in another place, yet he should retain the seat, which is not in reason (*b*).

308. The reason a faculty to a man and his heirs is bad, is, that as a seat in a church does not belong to the

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better than to houses.

Great inconveni-
ence caused by
annexing to
house.

Pew under
faculty appor-
tionable
amongst occu-
piers of divided
house.

Whether then
held in joint
tenancy.

Faculty to a
man and his
heirs is bad.

They may re-
side out of the
parish.

(*y*) *Tattersall v. Knight*, 1 *Phill.* p. 237.

(*z*) *Harris v. Drewe*, 2 *B. & Adol.* p. 164.

(*a*) 12 *Coke*, p. 106; 1 *Burn*, p. 360; *Stocks v. Booth*, 1 *T. R.* p. 432; *Walter v. Gunner & Drury*, 1 *Hagg. C. R.* p. 319; *Harris v. Wiseman, Winch*, p. 19.

(*b*) *Brabin v. Tradum, Popl.* p. 140; *Gibson's Co.* p. 221.

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person, but to the house, a man's heirs may reside out of the parish, and it would be an unjust usurpation from the parishioners to retain such a privilege for the use of others (*d*), as the right to a seat, whether the man and his heirs continue resident or not (*e*).

Bad where
house no
longer exists.

309. In the case of pews claimed as appurtenant to a messuage which the claimant had purchased, but which messuage is no longer in existence, such claim is bad (*f*).

Cannot belong
to land.

310. Nor can a seat be claimed, either by faculty or prescription, as appurtenant to land, because it is in respect to inhabitancy that it is to be used (*g*) ; and the ordinary himself cannot grant a seat as appurtenant to land (*h*).

Nor to non-
parishioner.

311. Nor has the ordinary power to make a legal grant, by faculty or otherwise, of a seat to a non-parishioner ; such faculties are, so far, at least, merely void, that no faculty is deemed, either in the Ecclesiastical Court or at common law, good to the extent of entitling any person who is a non-parishioner to a seat, even in the body of the church (*i*).

Nor to house
out of the
parish.

312. It was discussed but not decided in *Hallack v. University of Cambridge* (*k*), whether a faculty could be granted to appropriate a pew to a person in respect of a house out of the parish. It would appear, however, that such faculty cannot be legally granted (*l*).

Nor to extra-
parochial
persons.

313. No distinction can be made among non-parishioners ; the extra-parochials infringe equally upon the

(*d*) *Walter v. Gunner & D.*, 1 *Hagg. C. R.* p. 321.

(*e*) *Gib. Co.* p. 221; *Byerley v. Windus*, 5 *B. & C.* p. 18.

(*f*) *Craig v. Watson*, unpub.

(*g*) *Giba. Co.* p. 221; *Co. Litt.* p. 121 b.; *Byerley v. Windus*, 5 *B. & C.* p. 18.

(*h*) *Pettman v. Bridger*, 1 *Phill.* p. 325.

(*i*) *Fuller v. Lane*, 2 *Add.* p. 427; *Byerley v. Windus*, 5 *B. & C.* p. 18.

(*k*) *Hallack v. Univ. of Camb.*, 1 *Q. B.* p. 614.

(*l*) *Fuller v. Lane*, 2 *Add.* p. 427; *Byerley v. Windus*, 5 *B. & C.* p. 18.

rights of the parishioners with those who belong to another parish. They are equally non-contributory to the expenses of the church. It is the fault of those under whom they claim that they have no parish. They have the advantage of being extra-parochial; they must take the disadvantages also (*m*).

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314. A faculty for erecting a pew, which contains a clause permitting the party erecting it to let it, would be ^{powering} letting illegal. (so far?) illegal (*n*).

315. Even where an occupier has purchased a seat erected under a faculty containing a clause, permitting the party erecting it to sell it, this is no bar to the common law right of the parishioners, as such permission in the faculty is illegal. The practice of making such rules may have frequently prevailed, but it has constantly been dis-countenanced by the court (*n*).

316. That a party having had a seat allotted should further obtain sufficient room for her accommodation elsewhere, and be allowed to let out her pew to persons not resident in the parish, is an abuse which cannot be maintained; for it is a wild conceit that there can be such use made of pews, as of villas or other common property. It is sufficient indulgence which is usually given by faculties in granting the exclusive use, but no faculty was ever granted for purposes like these (*o*).

317. Faculties were certainly granted in former times with too great facility, and by no means with due consideration and foresight (*p*).

318. The experience of the mischief which has resulted from a too lavish grant of faculties in former times and the

Faculties
formerly
granted too
readily.

Change of
times not to be
overlooked.

(*m*) *Byerley v. Windus*, 5 *B. & C.* p. 20.

(*n*) *Walter v. Gunner & D.*, 1 *Hagg. C. R.* p. 314.

(*o*) *Ibid.* p. 321.

(*p*) *Fuller v. Lane*, 2 *Add.* p. 426.

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want of church room generally, and the propriety of affording additional sittings, especially to the poor, are strong features of the times; and they are not to be overlooked by ordinaries when application is made for a faculty (*s*).

Especial regard given to accommodation for the poor.

319. And every possible reason exists, why no concessions should be made, at all likely to infringe upon the due accommodation of the poor in their several parish churches. It is to be presumed that they are the persons most in want of religious instruction, and their title, as such, in particular, to receive it, is expressly recognized by the Divine Founder of Christianity itself (*s*).

They might be driven to dissent.

320. If disabled from receiving it from want of room in their parish churches, they are almost driven to seek it in places of dissenting worship, a circumstance exceedingly to be deplored; although of course they are clearly entitled, and should be freely allowed, to resort to such places of worship if they prefer it; provided they are really dissenters in opinion, from the doctrine or discipline of the Church (*s*).

Faculty effecting a reduction in free seats vicious.

321. A faculty for appropriating a seat to a messuage by taking down two pews where the poor were accommodated is, at least *prima facie*, unusual and vicious. All the pews are for the accommodation of the whole parish (*t*).

Strong case required to induce any faculty now.

322. A strong case should therefore be made out to induce the ordinary, in the exercise of a sound discretion, to appropriate any pew, by faculty, to a particular parishioner and his family, at the present day (*u*).

And very singular circumstances.

323. In 1829 the court said that, considering the increased population of the country, a parish must be very

(*s*) *Fuller v. Lane*, 2 *Add.* p. 428.

(*t*) *Butt v. Jones*, 2 *Hagg.* p. 424.

(*u*) *Fuller v. Lane*, 2 *Add.* p. 431.

singularly circumstanced to induce, and justify, a faculty of any sort for a pew, so as to preclude the parish from improving the church accommodation, particularly for the lower classes (*x*).

324. True it may be that, at the particular time when the faculty is applied for, its issue may not be generally inconvenient; the parishioners at large may be sufficiently accommodated, after and notwithstanding its issue. But in this even, the most favourable case, there are obvious reasons for inducing the ordinary to entertain such applications with a good deal of reserve (*y*).

325. For instance, additional room may be soon, or at some time, wanted, suggesting the propriety of new arrangements in the church; but such future arrangements may be formidably obstructed, by the actual issue of the faculty then prayed (*y*).

326. Ordinaries are not, at this day, to tie up their hands against such future arrangements as the rapidly increasing population of the country may soon render necessary or convenient, in order best to provide for the general accommodation of their several parishes, by a too lavish issue of faculties, or by the issue of a faculty at all, but under special circumstances (*z*). (This was said by the court in 1825.)

327. The court eventually went further and said that ordinaries, at the present day, are bound not to issue faculties, appropriating pews to individuals, but under *special circumstances* (*z*).

328. The result, upon the whole, of these faculties, is, that in many churches the parishioners at large are de-

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Objectionable
even though
not incon-
venient at the
moment.

But may
become so.

Repeated
caution en-
joined.

Now only
granted under
special circum-
stances.

By such
faculties
parishioners

(*x*) *Butt v. Jones*, 2 *Hagg.* p. 424.

(*y*) *Fuller v. Lane*, 2 *Add.* p. 431.

(*z*) *Woollocombe v. Ouldridge*, 3 *Add.* p. 4.

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at large often
deprived of
their rights.

Convenience of
parishioners
the chief
object.

Considerations
for court upon
an application
for faculty.

Whether pre-
judicial to pa-
rish at large?

Whether af-
fecting rights
of individuals?

Whether appli-
cant qualified?

The proportion
of sittings to
population.

prived, in a great degree, of suitable accommodation, by means of exclusive rights to pews, either *actually* vested in particular families by faculty or prescription, or at least, which is the same thing as to any practical result, *supposed to be so* vested (*d*).

329. The leading object of the court in granting faculties is the convenience of the parishioners (*e*).

330. There are various considerations to which the attention of the court should be directed when it receives an application for a faculty to an individual:—

331. 1st. Whether the appropriation would be prejudicial to the church or the parish generally? In which case, though the minister and churchwardens are the most proper persons to show cause, yet any other parishioner may oppose and show cause, if he thinks fit, because he has a general interest (*f*).

332. 2ndly. Whether it would affect the rights of any particular persons? In which case, only the persons who would be injured, or at least the churchwardens as guardians of the parochial rights of every parishioner, ought to oppose it (*f*), and no other parishioner who would not be personally affected.

333. 3rdly. Whether the person who sued for the faculty was fitly qualified to have such a grant (*f*).

334. What is the population of the parish in proportion to the number of sittings in the church? whether it is an increasing or a diminishing population? are necessary inquiries previous to any grant of a faculty for the appropriation of pews to particular persons. They are most necessary, and the result ought to be most satisfactorily in

(*d*) Fuller *v. Lane*, 2 *Add.* p. 428.

(*e*) Sharpe *v. Hansard*, 3 *Hagg.* p. 337.

(*f*) Partington *v. Rect. of Barnes*, 2 *Lee*, p. 345.

favour of such applicants, to insure the success of their applications (g).

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335. The size of the pew, also, and the proportion of the number of sittings in the pew to that of the applicant's family, are also to be taken into account (h).

Proportion of
pew to family.

336. The question whether any obstruction or inconvenience would be caused, is one which would come under the first head of inquiry (i).

Whether any
obstruction;

337. Whether any obstruction of light would be caused is another point for the consideration of the court (k).

or obstruction
of light;

338. The court should be careful to preserve the symmetry and proportions of the church inviolate (l).

or injury to
appearance of
church.

339. The fact that seats held under a faculty may be temporarily disturbed in an enlargement of a church furnishes no ground for opposition to the grant of a faculty for such enlargement (l).

Temporary
disturbance no
bar.

340. Ordinaries should be careful not to afford the applicants too great a proportion of room, or accommodation exceeding their real (actual and probable) wants to the exclusion of other parishioners; for that would be justifiable under no circumstances (m).

Parishioners
must not be
excluded.

341. The vestry granted to a man (in consideration of a money payment) a pew appropriated to his house which he sold to another, who thereupon applied for a faculty; but the court refused it and ordered him to be placed in the common part of the church (n).

Possession
originating in
payment is
ground for
refusing a
faculty.

342. In a case in the year 1825 the court would not say that no possible case for the issue of such a faculty might

Benefaction
might possibly
give moral
claim for
faculty.

(g) *Fuller v. Lane*, 2 *Add.* p. 432.

(h) *Ibid.* p. 433.

(i) *Tattersall v. Knight*, 1 *Phill.* p. 233.

(k) *Groves & Wright v. Rect. of Hornsey*, 1 *Hagg. C. R.* p. 195.

(l) *Harrison v. Swayne & S.*, unpub.

(m) *Fuller v. Lane*, 2 *Add.* p. 436.

(n) *Harford v. Jones*, Consist. 1724, cited in 2 *Hagg. C. R.* p. 318, n.

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arise, as to a benefactor contributing liberally to the enlargement of the church or the accommodation, especially of free seats for the poor, but even then it must be fettered with all due restrictions and limitations (*m*).

Such faculties probably not granted in future.

Pew rights under faculties to be duly considered.

Court must take care not to exceed its authority.

Possessory right gives standing to oppose faculty.

Faculty cannot be granted in a suit to defendant.

343. But from what has been laid down in subsequent cases, it is not probable that even this limited favour would in future be accorded.

344. In granting a faculty for the enlargement of the church, the court will take care that the rights of persons, claiming a pew under a faculty, are secured, although they do not appear to the usual citation of parishioners (*n*).

345. The court must take care that it does not exceed its authority, well observing where no legal rights interpose and where such rights and objections do interpose. If a faculty were granted and it should turn out that there was already a prescriptive right, the faculty would (so far at least) be void, and the person having such a right would be entitled, if his pew were removed or altered under the supposed authority of such faculty, to have it reinstated (*o*).

346. A pew alleged to have been bought twenty-five years previously and enjoyed since, gave a possessory right sufficient to defeat an application for the grant of a faculty of the same seat to another, but did not give an absolute right (*p*). (Delegates, 1756.)

347. The decree for a faculty made in favour of one who had only appeared as a defendant to oppose a faculty being granted to another, was reversed by the Arches Court (*q*).

(*m*) *Fuller v. Lane*, 2 *Add.* p. 436.

(*n*) *Harrison v. Swayne & S.*, unpub.

(*o*) *Knapp & ors. v. Nicholl*, 2 *Roberts.* p. 364; *Archer v. Sweetman, Fort.* p. 346.

(*p*) *Dearle v. Southwell*, 2 *Lee*, p. 260.

(*q*) *Ibid.*

348. Whether any parishioner, not specially damnified, has a right to oppose the grant of a faculty to another parishioner is not settled.

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Doubt if one
not damnified
can oppose.

Early faculties
in various
forms.

349. Faculties have been granted in various forms. There are some instances of faculties *at large*, that is, appropriating pews to persons, and their families, without any condition annexed, of residence in the parish (*r*).

350. The appropriation of a pew has sometimes been to a man and his family, "*so long as they continue inhabitants of a certain house in a parish* :" and Sir John Nicholl said, that this is perhaps the least exceptionable form, as it is unlikely that a family continuing in the occupation of the same house in the parish, shall be in circumstances to render its occupation of the same pew in the church very objectionable (*s*).

Sometimes
during inhabi-
tancy of a cer-
tain house.

351. Buller, J. (K. B.), stated that he had seen a faculty for exchanging seats in a church; under which, after stating that A., in right of a particular house in a parish, had immemorially a right to a certain pew in the church, the ordinary gave his consent to exchange it for another, but still each was annexed to the house (*t*): but the validity of such a faculty seems never to have been tried, nor does any other example appear to be known.

For ex-
changing
seats.

352. The more modern form was, to a man and his family, "*so long as they continue inhabitants of the parish*" generally. Still this class of faculties is objectionable, inasmuch as they often entitle parishioners to the *exclusive* occupancy of a pew, of which they, themselves, are no longer in circumstances to be *suitable* occupants at all, whatever their ancestors might have been (*u*).

While inhabi-
tants of the
parish.

(*r*) *Fuller v. Lane*, 2 *Add.* p. 427.

(*s*) *Ibid.* p. 426.

(*t*) *Stocks v. Booth*, 1 *T. R.* p. 431.

(*u*) *Fuller v. Lane*, 2 *Add.* p. 426.

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Should be
while inhabi-
tants of parish;
or of parish
and of a certain
house.

At their expi-
ration parish
rights revive.

Ordinary must
use a sound
discretion in
granting a
faculty, and is
subject to ap-
peal.

Not a matter
for prohibition.

Faculty upon
union of city
churches.

353. So Sir John Nicholl said it was very desirable that after due time has been given as encouragement to those who build them, the seats should return to the disposition of the ordinary. The form of the grant should be, "So long as they continue inhabitants of the parish," or, "So long as they continue inhabitants of the parish, and occupiers of the messuages stated;" the former of these is the more usual, as it gives no notion of annexing to houses (*x*).

354. Because, on the expiration of a faculty limited to a certain period, the right of the parishioners to the pews, the subject-matter of such faculty, revives (*y*).

355. Though the discretion exercisable by the ordinary be of the widest nature, yet it must be a sound discretion having a due regard to times and circumstances and to the rights and interests of all parties concerned: if an unsound discretion be exercised, a party may appeal to a superior tribunal (*z*).

356. It is a matter for appeal, and the Court of Queen's Bench cannot interfere by prohibition; even where the faculty applied for is of a mixed nature, that court will presume that the faculty will be limited to legal objects (*a*).

357. By the Act for Union of City Churches (*b*) the bishop may grant a faculty to alter and re-adjust the seats in the church of the united parish and the appropriation thereof, so that at least half be unappropriated, and the remainder shall be at the disposal of the churchwardens, under the bishop, discharged from all prescriptive and

(*x*) Tattersall *v.* Knight, 1 *Phill.* p. 237.

(*y*) Blake *v.* Osborne, 3 *Hagg.* p. 733.

(*z*) Butt *v.* Jones, 2 *Hagg.* p. 424.

(*a*) Hallack *v.* Univ. of Cambridge, *Ad. & E., N. S.*, 1 *Q. B.* p. 614.

(*b*) 23 & 24 Vict. c. 142, s. 28.

other pre-existing rights: this, of course, includes rights under faculties.

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358. As a general rule a faculty, once granted, is good and valid against the ordinary himself, and irrevocable (*c*). If the doubts suggested (as previously mentioned) as to the power of granting such faculties at all be well founded, the (supposed) grants would be, not revocable, but simply invalid.

359. A faculty (for annexing a pew to a house or messuage), obtained by surprise and undue contrivance, may be revoked (*d*).

360. The existence of claims to the exclusive enjoyment of pews in the body of the church by faculty or prescription has of late years produced injurious consequences, especially in parishes where there has been a large increase of population (and rural parishes are now, therefore, almost the only exceptions). Sometimes these exclusive rights prevent an arrangement of the church room, the most beneficial for the general accommodation. In some instances these pews remain unoccupied, either from the decay of the houses to which they were originally annexed, or from other circumstances (*e*).

361. It will also be readily understood that rights at first claimed under the authority of a faculty in process of time merge into the permanence of a prescription. The householder enjoying such a right is naturally a person occupying a leading position and possessing a great influence in the parish, and consequently very little likely to have his title questioned; and thus by mere efflux of time he or his family acquire such a title as neither the

(*c*) *Fuller v. Lane*, 2 *Add.* p. 431; see also *Knapp & others v. Nicholl, 2 Roberts. Ecccl. Rep.* p. 364.

(*d*) *Butt v. Jones*, 2 *Hagg.* p. 426.

(*e*) *Report on Ecccl. Courts*, 1832, 12mo. ed. p. 131.

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parish nor ordinary can question, though the former are so far deprived of their ancient rights and the latter of his jurisdiction.

Modern faculties carefully recorded.

362. The injury is more serious, if the decision be supported that non-parishioners may prescribe for seats; but, on the other hand, since the records which include the grant of faculties are now very carefully kept and easily accessible, there is less fear in future of the lapse of rights by faculty into rights by prescription.

Interfere with the church-wardens.

363. The duties of churchwardens in seating and arranging the parishioners are too frequently interfered with by *faculties* appropriating certain pews to certain individuals, in different forms and with different limitations; as also by prescriptive rights to pews, which these faculties are supposed to have occasioned (*h*).

Claims often supposititious.

364. In very many instances these exclusive rights are merely supposititious, and would turn out, upon investigation, to be no rights at all (*i*).

*Recommendations of ecclesiastical commissioners.
There be no future grant.*

365. The importance of the subject elicited the following recommendations from the commission.

Present claims to be investigated by a commission.

1st. That in future no faculties shall be granted permanently annexing to any messuage a pew in the church or chancel (*j*):

366. 2nd. That a commission shall issue in each diocese, directed to the archdeacon or archdeacons, or one or more of the rural deans, requiring them, in conjunction with two other individuals, to make a full investigation as to the pews and seats claimed to be held in each parish church or chapel by faculty or prescription; that where such claims shall be established to the satisfaction of the com-

(*h*) *Fuller v. Lane*, 2 *Add.* p. 426; *Report on Eccol. Courts*, p. 131.

(*i*) *Fuller v. Lane*, 2 *Add.* p. 427; *Pettman v. Bridger*, 1 *Phil.* p. 325.

(*j*) *Rep. of Eccol. Com.* p. 182.

missioners, a record of the same, to be kept in the registry of the diocese, should be made (*k*).

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367. The commissioners thought it extremely desirable that all claims, where no faculty or legal prescription exists, should be finally extinguished; but they felt considerable difficulty in suggesting measures to effect that end. When persons claiming such rights decline to come forward before the commissioners to establish them, there seems no hardship in precluding them from asserting a title hereafter; but more doubt might be entertained as to the course fit to be pursued where the claim was asserted but rejected by the commissioners. Expense is so material a consideration in these matters, that they did not feel justified in recommending any mode of trial which would subject the parties to any legal costs. To invest the commissioners with full power finally to determine all these objections would be the course most effectual for their speedy decision (*k*).

All improved
claims to be
extinguished.

368. This recommendation has been to a certain extent adopted in respect to newly built churches, in an act of parliament passed in 1845 (*l*), which directs that, upon the substitution of a new church for an old one and the transfer thereon of parochial rights, the bishop on his own motion, or at the instance of any person claiming a seat by prescription or faculty, shall issue a commission to the archdeacon and two incumbents and two laymen, who shall examine into all such claims and report to the bishop, who, if satisfied, is to assign seats to those whose claims are proved; and it may be presumed that those who do not make and prove their claims are shut out for the future from such exclusive rights.

Commis-
sioners' recom-
mendation
since adopted
on substitu-
tion of new for old
church.

369. Also by the same Act the same principle is applied

And on trans-
fer from cathe-
dral of parish
rights.

(*k*) *Rep. of Ecccl. Com.* p. 132.

(*l*) 8 & 9 Vict. c. 70, s. 1.

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Rights abandoned by leaving parish.

Modern faculty to prevent appropriation.

where any part of a cathedral has been accustomed to be used as a parochial church, and the rights thereof are transferred to any new church in the parish (*k*).

370. If a man quits his house and leaves the parish, his right to a seat, whatever was the nature or origin of that right, is at an end, because he has ceased to be a parishioner (*l*). (This, however, was said, apparently, without reference to rights by prescription.)

371. The power of the bishop in the grant of faculties has lately been applied to the purpose of non-appropriation, being an object precisely the reverse of that for which such power had previously been exercised. Upon the petition of the vicar and churchwardens, supported by the vestry, a faculty was granted by the bishop (Lichfield) authorizing certain works proposed to be done by voluntary contributions, and decreeing that all the sittings in the church should be wholly free and unappropriated (*m*).

(*k*) 8 & 9 Vict. c. 70, s. 4.

(*l*) *Byerley v. Windus*, 5 *B. & C.* p. 18.

(*m*) Ex inform. Reg.

PART B.

PARISH CHURCHES AND CHAPELS OF EASE.

DIVISION C.

PRIVATE SEATS.

CHAPTER II.

PRESCRIPTION.

CAP. II.
PREScrip-
TION.

372. PRESCRIPTION is the highest kind of title; it cannot be altered by any authority (a).

Prescription is highest title.

373. Prescription is thus defined by an early writer:—

Prescription est quant un person claime ascun chose, pur ceo que il, ses ancestors, ou predecessors, ou ceux que estate il ad, ont ew ou use ascun chose dont nul memorie curt al contrarie.

Prescription is when a man claimeth anything for that he, his ancestors, or predecessors, or they whose estate he hath, have had or used anything all the time, whereof no mind is to the contrarie (b).

374. And by another author, thus:—

Præscriptio est jus quoddam, ex tempore congruens, auctoritate legum vim capiens, poenam negligentibus inferens, et finem litibus imponens. Quod non in totum a naturali jure recedit, nec per omnia ei servit. Quemadmodum enim natura æquum est, neminem debere locuple-

Definition by
*Reformatio
Legum.*

(a) *Groves v. Rect. of Hornsey*, 1 *Hagg. C. R.* p. 196.

(b) *Exp. of Terms of Lare*, p. 149 (A.D. 1615).

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Prescription by personal right or *que estate*.

tari cum alterius jactura: ita naturali rationi congruum est, et negligentibus poenam inferri, et finem litibus imponi (*c*).

375. Prescription is of two sorts, either a personal right which has been exercised by a man and his ancestors, or a right attached to the ownership of a particular estate and only exercisable by those who are seised of the estate. The first is termed a prescription in the person; the second is called a prescription in *que estate*, which, in plain English, means a right or privilege claimed by prescription as annexed to and going along with particular lands (*d*).

Prescription differs from custom. Possession and time are essential.

376. Prescription appears to differ from custom in being a personal right rather than the right of a class or general right. But to both of these “two things are incident and inseparable, viz. possession or usage, and time. Possession must have three qualities; it must be long, continual and peaceable—*Longa, continua et pacifica*; for it is said, Transferuntur dominia sine titulo et traditione, per usucaptionem; s. per longam, continuam et pacificam possessionem” (*e*).

Founding churches analogous to highway.

377. Cases of founding churches are analogous to those of the dedication of a highway. It is very seldom that a grant of the soil on which the church is built can be found, but acquiescence in consecration renders the case analogous to a dedication, and the soil afterwards is vested in the ordinary, or in the rector as trustee for the benefit of the parishioners (*f*).

Resembles an easement.

378. And as regards pews it appears to be more in the nature of an easement. There is strong reason for think-

(*c*) *Reformatio Legum Eccles.*, ed. 1641, p. 246.

(*d*) *Shelford On Real Property*, p. 80.

(*e*) *Coke upon Lit.*, Book II., sect. 170.

(*f*) *Chapman v. Jones, L. R.*, 4 Ex. p. 282.

ing, that an action on the case is maintainable only on the ground of the pew being annexed to a house as an easement, because an action *on the case* is the proper form of remedy for the disturbance of the enjoyment of any easement annexed to land, as in the case of a right of way or a stream of water (*g*).

379. An easement is defined to be a right of accommodation on another's land, as distinguished from one which is directly profitable (*h*). Definition of an easement.

380. In no case, however, has a person a right to the possession of a pew, analogous to the right which he has to his house or land; for *trespass* would lie for an injury to the latter, but for an intrusion into the former, the remedy undoubtedly is by an action *on the case* (*i*). The right of possession.

381. The right of sitting in an allotted space of the church has been compared to a right of common of pasture, which may be apportioned. For instance, if a person seised of a messuage and forty acres of land, having a prescriptive right of common on a waste for all commonable cattle, *levant* and *couchant* upon the messuage and forty acres, as to the said messuage and forty acres appertaining, make a feoffment to another of five acres of that land, the common is severable, because the prescription to have common on the land, extends to the whole and every parcel. Thus in a case where by faculty a pew had been granted to A. B. and his family for ever, and the occupiers of the messuage, it was held, that the right to use the pew was attached to the occupier of every part and parcel of that messuage (*k*).

382. Oughton mentions it thus:—"In divers parts of Oughton's opinion referring to lords.

(*g*) *Mainwaring v. Giles*, 5 *B. & A.* p. 361.

(*h*) *Burton On Real Property*, Chap. VI., sect. 8, art. 1165.

(*i*) *Mainwaring v. Giles*, 5 *B. & A.* p. 361.

(*k*) *Harris v. Drewe*, 2 *B. & Adol.* p. 168.

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the kingdom, more especially in Wales, particular seats in churches, or rather the right of sitting and hearing divine service in particular seats, belongs, and hath of old, beyond the memory of man, belonged to certain individuals, lords or others, proprietors of dwelling-houses within the parish, so that no other persons have any right to sit in the said seats or disturb such ancient occupiers” (*a*). This evidently refers to the privilege granted from very early times to the patron or other great person of the parish and not to others.

Doubts as to faculty apply strongly to prescriptive claims.

383. The doubts which have been heretofore expressed as to the validity of the grant of exclusive right under a faculty to seats in other than a chapel or aisle, apply even more strongly to a like claim by prescription, and the wrong done to the parishioners at large is by so much the more serious.

Prescription could thus have no legal beginning.

384. If the ordinary has not such power of granting by faculty the exclusive use of a seat, it is difficult to see how a prescriptive right to a seat, as belonging to a house, can have any just commencement. Because, if there be no means by which a title to a seat can have a legal beginning, it seems strange that prescription should be admitted as evidence, of that which never could have a legal beginning or being,—namely, a legal title (*b*).

And there is no competent grantor.

385. For where a person cannot make a grant, no valid grant will be presumed. And it was held, before the passing of the Prescription Act (*c*), that no right of light could be gained by windows, which for upwards of twenty years had looked upon glebe land, because in such a case no valid grant of an easement could be presumed, as the

(*a*) *Oughton*, tit. XVII., sect. 48: Law's ed., 1844, p. 50.

(*b*) *Watson*, p. 385.

(*c*) *Prescription Act*, 2 & 3 Will. IV. c. 71.

rector, being merely tenant for life, never could have had the power to make such a grant (*d*).

386. It appears, therefore, most consonant with reason, that a person should not prescribe to have a seat in the common part of the church, as peculiar to his house, and that the temporal courts ought not to meddle with the deciding of controversies about such seats, but only the ordinary, who ought to place the inhabitants of each parish within his jurisdiction, according to his discretion (*e*).

387. Titles by prescription to pews are not mentioned in the old books; neither is the ordinary's power to give titles, upon which such prescriptions are founded. And Watson is of opinion that the ordinary never had such power, and that such prescriptions are, therefore, unreasonable (*f*).

388. It has been said, that although prescriptions resemble the river Nile, in this respect, that no one can trace their origin, and so no direct reason can be given for them, as they were before the memory of man, yet some probable reason, sufficient to make the prescription reasonable, ought to be given (*g*).

389. Whenever, therefore, there is no proof of a faculty, there may be proof of prescription, founded on such immemorial usage as presumes the grant of a faculty, for the appropriation of a pew to a certain messuage or house (*h*).

390. But where the records of the ordinary's court extend back to the middle of the sixteenth century, being a date previous to the granting of any such faculties, and

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Prescription
therefore
appears un-
reasonable.

Prescription
for seats is not
mentioned in
old books.

Though origin
be unknown,
some probable
reason should
be shown.

A faculty is
therefore pre-
sumed.

Faculties re-
corded in
bishop's re-
gistry.

(*d*) *Baker v. Richardson*, 4 *B. & A.* p. 579.

(*e*) *Watson*, p. 385.

(*f*) *Ibid.* p. 384.

(*g*) *Buxton v. Bateman*, *Siderf.* p. 208.

(*h*) *Pettman v. Bridger*, 1 *Phill.* p. 324.

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the records be found to contain no entry of the grant of faculty for the seat in question, situated in the body of the church, then any claim by prescription for such seat must fail.

Term to be used, if relied on.

391. It is inconvenient not to use the legal term *prescription*, where it is intended to be relied on as a fact (*e*).

Founded on immemorial usage.

392. The only foundation for prescriptive claim to seats is immemorial usage (*f*): and consequently no prescriptive title can be maintained where its origin is known (*g*).

Against common right.

393. In a case (not, of course, referring to church seats, for no such subject for litigation had then arisen), decided in the year 1304, the court said:—

“ Since you affirm your estate by a custom, which custom is against common right, and which custom began by a tort, it is necessary, if you wish to prove your estate by that custom, that you should maintain it by long continuance of time” (*h*).

110 years' use insufficient.

394. Even 110 years has been held insufficient (*i*).

100 years sufficient.

395. But, in another case, where possession for 100 years and upwards was admitted, the court held that it was needless to look to the evidence of use and possession (*k*).

None in church built in 1663.

396. In a church built in 1663, there could be no right by prescription (*l*).

Impossible in a modern church.

397. Consequently in a modern church, arranged under the authority of a local act of parliament, there can be no prescriptive title (*m*).

(*e*) Knapp & others *v. Nicholl*, 2 *Roberts. Eccl. R.* p. 365.

(*f*) Fuller *v. Lane*, 2 *Add.* p. 432; Pettman *v. Bridger*, 1 *Phill.* p. 824.

(*g*) Blake *v. Usborne*, 3 *Hagg.* p. 733; *Co. upon Littleton*, Bk. II. s. 170.

(*h*) *Year Book*, 32nd Ed. I.: ed. by Record Commission, p. 264.

(*i*) Fuller *v. Lane*, 2 *Add.* 432.

(*k*) Knapp & others *v. Nicholl*, *Roberts. Eccl. Rep.* p. 367.

(*l*) Londonderry Cathedral, 8 *Law Times Rep.* p. 863.

(*m*) Spry *v. Flood*, 2 *Curt.* p. 858.

398. Possession for thirty-six years was held to be presumptive evidence of a prescriptive right in a case where the church had been rebuilt about forty years (*n*). (The case was against an intruder, not against the churchwardens or ordinary.)

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TION.

Presumption in
church rebuilt.

399. The ordinary time to which the proof of an ecclesiastical prescription is necessary is, however, very limited, provided the origin be unknown; thirty years constitutes a prescription, and it is not necessary to go further back with evidence of repair (*o*).

400. A prescriptive title, when proved, cannot be altered by any authority. It is, therefore, the highest and best title which a man can have, as it is held to exclude the ordinary (*p*).

Ordinary pre-
sumption on
thirty years.

Prescription
excludes the
ordinary.

401. A prescriptive right must be clearly proved—the facts must not be left equivocal; and they must be such as are not inconsistent with the general right (*q*).

Must be clearly
proved.

402. In the tenth year of the reign of James I., it was held, by Lord Coke and the other justices, in the case of *Pym v. Gorwyn* (*r*), that a person cannot prescribe for a seat in the body of a church.

One cannot
prescribe for
seat in body of
church.

403. And in the following year, on a prohibition to the Ecclesiastical Court being sued for, upon surmise of a title by prescription, to a seat in the common part of the church, Lord Coke and the other justices answered, that for the title they were not there to meddle with it, this being for a seat in the church; Justice Houghton remarking that the disposition of pews in the church belongs of right to the order and discretion of the ordinary (*s*).

Common law
would not
meddle with
such claim.

(*n*) *Rogers v. Brooks*, 1 *T. R.* p. 421.

(*o*) *Knapp & others v. Nicholl*, *Roberts. Ecol. Rep.* p. 367.

(*p*) *Groves v. Rect. of Hornsey*, 1 *Hagg. C. R.* p. 195; *Fuller v. Lane*, 2 *Add. p. 425.*

(*q*) *Pettman v. Bridger*, 1 *Phill.* p. 324.

(*r*) *Pym v. Gorwyn*, *Moor*, p. 878.

(*s*) *May v. Gilbert*, 2 *Bulst.* p. 151.

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TION.

But left it to
the ordinary.

Even when
relating to an
entire aisle.

Titles by pre-
scription are
not ancient, in
Watson's
opinion.

404. Justice Dodderidge also mentioned a case which he had moved in the Court of Common Pleas, where an action had been brought for the disturbance of a seat in the church, and where he had cited Hall's case, and the case of the gravestone and coat armour, for the taking of which an action of *trespass* was held to lie at common law, and had argued that for the same reason an action of *trespass* should lie for such a disturbance in a seat in the church. But the judges all said that they would not meddle with deciding such controversies for seats in the church, but would leave the same to them to whom it more properly belonged (*n*).

405. And though an aisle is evidently subject to different considerations they still declined to interfere. Justice Croke said, that in Hall's case a man built an entire aisle in the church, and was at continual charge to repair it; and that it had been held that he had his remedy at common law for a disturbance. But the judges all said, "We are not here to meddle with seats in the church" (*n*).

406. Watson says:—"To speak my own thoughts, I conceive that the *ordinary had anciently the power* of placing the parishioners in such seats at least as are set in *that part of the church repaired by the parishioners* according to 8 Hen. VII. c. 12, and that *prescriptions* to have seats as belonging to houses, and the ordinaries' power to give titles (which are the rise of such prescriptions), are but *lately talked of*; for I cannot find in the old books any mention of such titles by prescription, or power of the ordinary. And it seems to me that the ordinary hath no such power, and that such prescriptions are not reasonable" (*o*).

(*n*) *May v. Gilbert*, 2 *Bulst.* p. 151; *Hall v. Ellis, Noy*, p. 183.

(*o*) *Watson*, p. 384.

407. If the lord of the manor, or any other gentleman of the parish having an estate and an ancient house or messuage therein, has immemorially, he and his ancestors, sat in an aisle of the church, buried their dead there and always repaired it, he may prescribe for it; and cannot be dispossessed of it either by the churchwardens, the clergyman, or the ordinary, and if disturbed he has his remedy.

For such immemorial possession will carry with it a presumption that the aisle was first built by the founder, with the consent of the clergyman, patron, and ordinary (*p*).

408. There is no doubt that if the proprietor, or patron himself, has used to dispose of and order the seats by placing persons therein, in such case the ordinary cannot displace them (*q*).

409. The circumstance that the freehold of a chapel or chancel adjoining or forming part of the church may be in the rector of the parish does not annul the right of a person to its exclusive use, if built and repaired by him and his ancestors from time immemorial, and a place of burial and for hearing divine service (*r*).

410. Ayliffe follows thus (based upon Coke's Rep.):— “But if an inhabitant and his ancestors have used time out of mind to repair an aisle in the church proper and peculiar to his house, and has been wont to sit there with his domesticks in order to hear divine service, and been likewise accustomed to bury therein, this makes this aisle so peculiar to himself and his household, that he cannot be displac'd by the ordinary himself” (*s*), much less can he be interrupted by the parson or churchwardens.

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TION.

Prescription
for an aisle
easy. Pre-
sumably built
by founder of
church, or
other.

Ordinary can-
not interfere.

If freehold be
in rector, it
makes no
difference.

Opinion other
wise as re-
spects an aisle,
in Ayliffe's
opinion.

(*p*) Corven *v.* Pym, 12 *Co.* p. 105; 3 *Inst.* p. 202, citing above; less strongly, *Godb.* p. 199; *Moor.* p. 878; Bunton *v.* Bateman, 1 *Lev.* p. 71.

(*q*) Buzzard's case, 2 *Rolle's Abr.* p. 288.

(*r*) Churton *v.* Frewen, 1 *L. R.*, 2 *Eg.* p. 658.

(*s*) Ayliffe's *Parer.* p. 485, citing 12 *Co. Rep.*, p. 104.

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PRESCRI-
PTION.

Distinction be-
tween chapel
or aisle and
body of church.
Presumptions
different.

411. Here then is presented a very wide distinction between a claim in respect to a chapel or aisle and a claim in respect to a seat in the body of the church. It is reasonable to suppose that if a person who builds a chapel or aisle as an addition to the church and for the convenience of himself and his descendants, he and they should possess an exclusive right of user therein (*r*). But that the founder of a church should retain to himself and his descendants a portion of the body of the church, though possible, is not a reasonable thing to presume, and perhaps no single example has ever been proved; and as the use of the body of the church is in the parishioners in common, there is a strong presumption against any exclusive claims until definitely proved. It is therefore more difficult to prove a right by prescription to a pew in the body of the church than to a pew in the chancel or in an aisle.

Presumption
against pre-
scription as
respects body
of church.

412. As a prescription is founded upon a faculty for a seat in the body of the church presumed to have existed, one would anticipate that such faculty, being in derogation of public right, the presumption respecting it would be of the most limited nature *stricti juris*. It, however, seems, on the contrary, to have been viewed in the most favoured light: the ground for this is difficult to imagine.

The Prescrip-
tion Act.

413. By the Prescription Act, when any right of way or other easement shall have been enjoyed, by any person claiming right to it, without interruption for twenty years, the claim thereto shall not be defeated by showing that it was first enjoyed at any time prior to such period (though it may be defeated in any other way by which it was liable to be defeated before the act); and when the right shall have been so enjoyed for forty years, it shall be deemed absolute and indefeasible, unless it shall appear that it was

(*r*) Chapman *v.* Jones, *L. R.*, 4 *Ex.* p. 281.

enjoyed by an express consent or agreement, made or given, by deed or writing (*s*).

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TION.

414. The question then arises whether, upon the construction of this act, a prescriptive right to a pew is such an easement as may be established on a possessory title of forty years' user by the occupier of a house, all necessary repairs having been done by him; and, consequently, whether the law will presume that such possessory title is founded on a faculty, when it may be well known that no such faculty was ever in existence.

Whether Pre-
scription Act
affects pews.

415. Whether the Prescription Act applies to pews is Dr. Lushington's opinion. a question which has not yet been tried; but, though the subject is not entirely free from doubt, it is believed that the act does not so apply. Such seemed to be the opinion of Dr. Lushington, when at the bar, in a case laid before him to advise upon (*t*).

416. Questions of prescription are triable in the Queen's Bench by *action on the case* (*u*). Prescription triable in Queen's Bench.

417. Although the ordinary may have a right to dispose of all vacant seats in the aisle, he cannot intermeddle with a temporal right (*x*). Ordinary can-
not meddle.

418. The common law will not suffer the spiritual courts to try prescriptions, apparently because the time in which such prescriptions or customs may be created is different by the ecclesiastical law from what it is at the common law. The former allows of different times in creating prescriptions and customs, and generally less than that at common law (*y*); and inheritances might be affected

Why common
law will not
suffer spiritual
courts to deal
with prescrip-
tions.

(*s*) 2 & 3 Will. IV. c. 71, s. 2.

(*t*) MS. opinion.

(*u*) Palm. p. 424 (A.D. 1619-29); Hutton's case, *Latch.* p. 116; Mainwaring v. Giles, 5 *B. & A.* p. 361.

(*x*) Swetnam v. Archer, 8 *Mod.* p. 338.

(*y*) Watson, p. 386.

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TION.

Only interferes
if Spiritual
Court is about
to try prescrip-
tion.

And not if
prescription be
admitted.

Prescription
pleaded stops
Spiritual Court.

And prohibi-
tion will be
granted.

A bill in
Chancery for
quiet posse-
sion will not
lie.

by adjudging them to be good which by common law are no prescriptions.

419. But where the Spiritual Court has jurisdiction over the subject-matter, it will have jurisdiction equally, whether the claim is founded upon prescription or upon any other right; it is only when the Spiritual Court is proceeding *towards the trial of the prescription* that a claim by prescription furnishes ground for a prohibition (*z*).

420. If the prescription is admitted, the Spiritual Court may go on with the cause, as a defendant does a modus or pension by prescription; and this was the foundation of the consultation in *Jacob v. Dallow* (*a*).

421. But when a prescription is pleaded (and not admitted) in the Spiritual Court, it ties up the hands of the ordinary from any further proceeding, for the Spiritual Court cannot try a prescription (*b*).

422. And, therefore, if a suit be commenced in the Spiritual Court for a seat on account of the prescription, a prohibition will lie for the party sued, because a temporal right is in question,—whether the prescription be good or not, is not for the Spiritual Court to judge (*c*).

423. A bill will not lie to quiet one in the possession of a pew in a church. Thus, when the plaintiff had obtained a decree before the ordinary for an aisle in a church, in A.D. 1676, and brought his bill for the decree of the Court of Chancery to quiet him in possession, the court dismissed the bill with costs, because, as it never executes its own decrees by a bill, without examining the justice thereof, it could not examine whether the bishop had done

(*z*) *Byerley v. Windus*, 5 *B. & C.* p. 21.

(*a*) *Jacob v. Dallow*, 2 *Salk.* p. 551, & 2 *Ld. Raym.* p. 755; *Byerley v. Windus*, 5 *B. & C.* p. 21.

(*b*) *Swetnam v. Archer*, 8 *Mod.* p. 338.

(*c*) *Witcher v. Cheslom*, 1 *Wils.* p. 17.

right, and, besides, such a decree could not bind his successors (*d*).

424. Though in a remarkable instance of the case of a bill of peace to quiet parties in rights when established, applying to the Court of Chancery to decide their legal rights, and where both parties were assenting, that court proceeded to hear and decide the questions at issue (*e*).

425. Though the Ecclesiastical Court cannot try the question of prescription, yet it may proceed till prohibited, for the defect is not in jurisdiction but *in modo triationis* (*f*).

426. When once it appears, by the proceedings in the Spiritual Court, that the prescription, instead of being admitted, is disputed, and that the parties are in progress to bring its existence to trial, the courts of common law are not bound to wait till the parties have incurred the expense of *putting it in issue*, but the prohibition is grantable at once; and it was upon this principle that prohibitions were granted in *Darby v. Cossens* (*g*), and in *French v. Trask* (*h*). It could not be permitted to a party to take the chance of a trial below, and, when that was decided against him, to come to the King's Bench and object to such trial.

427. Although the leaning of courts was formerly in favour of presumptions, the course now is for judges to direct juries not to presume an instrument, unless under all the circumstances of the case they actually believe that the particular document once existed (*i*).

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TION.

But Chancery
may decide if
both parties
consent.

Defect of
Eccles. Court
not in-juris-
diction, but
mode of trial.

Prohibition
grantable
before putting
question in
issue.

Courts are no
longer in
favour of pre-
sumptions.

(*d*) *Baker v. Child*, 2 *Vern.* p. 226.

(*e*) *Charlton v. Frewen L. R.*, 2 *Eg.* p. 657.

(*f*) *Knapp & ors. v. Nicholl*, 2 *Roberts. Eccl. Rep.* p. 366.

(*g*) *Darby v. Cossens*, 1 *T. R.* p. 552.

(*h*) *French v. Trask*, 10 *East*, p. 348; *Byerley v. Windus*, 5 *B. & C.* p. 22.

(*i*) *Morgan v. Curtis*, 3 *Man. & Ry.* p. 391; *Livett v. Wilson*, 3 *Bing.* p. 118, and 10 *B. Moore*, p. 489; *Lopez v. Andrews*, 3 *Man. & Ry.* p. 329, note.

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TION.

Prescription
must be clearly
proved.

Difference be-
tween a pew in
body of church,
and a chapel.

Land, though
site of a chapel,
cannot be ap-
pertaining to
other land or a
manor.

Different as to
pew in body of
church.

428. A prescriptive right must be clearly proved; the facts must not be left equivocal, and they must not be such as are not inconsistent with the general right (*k*).

429. There is a wide difference between pews in a parish church (*i.e.* in the body of the church) which are annexed to dwelling-houses in the parish and lesser chancels or chapels. With regard to pews, it appears to be beyond doubt that they must be annexed to a dwelling of some kind or another. But with regard to chapels or lesser chancels, they are on an entirely different footing. They are beyond the jurisdiction of the ordinary, and may be freeholds of inheritance (*l*).

430. Upon no principle of law is it possible to hold that a freehold piece of land, just because a church or chapel may be built on it, can be held as appendant or appurtenant to other land. In a case where a chapel was not even within the manor the court said it was new to contend that land outside a manor, though in the same parish, could be held to be necessarily appurtenant to the manor or necessarily incidental to the inhabitancy of the manor house, and incapable of being enjoyed in any other way (*l*).

431. In the case of a pew in the body of the church, the considerations are totally different; that part being admittedly for the use of all the parishioners in common, there the presumption is naturally adverse to any exclusive rights, and something more than an imaginary faculty should surely be required. This point does not seem hitherto to have been very clearly expressed, though it is settled that a right by prescription to a seat situated in the body of the church is more difficult of proof than if it were situated in an aisle or chancel; and formerly it was even

(*k*) *Pettman v. Bridger*, 1 *Phill.* p. 825.

(*l*) *Chapman v. Jones*, *L. R.*, 4 *Ex.* p. 281.

doubted whether it were possible; in fact, Lord Coke and the other justices so decided in two cases (*m*).

432. On the other hand it was held in the Exchequer, that the distinction between a seat in an aisle and in the body of the church is merely made a doubt or question in some of the books, but there was no case in support of it, and there is no distinction in the reason of the thing itself (*n*). There is a distinction to be drawn between a gallery and an aisle, inasmuch as a gallery is an erection in the church, while an aisle is an addition to the building (*o*).

433. But there is no doubt that a person owning the freehold of a private chapel can convey it. It cannot be appendant or appurtenant to a manor in which it is not situate, and the owner has a good right to convey his interest in it to another (*p*).

434. It is not necessary that the house be situate in the parish if the claim be in respect to a seat in an aisle or chapel (*q*). In the case of an aisle, this might be accounted for on the presumption that the soil on which it stands was originally the property of the person who built it. For it was said by Chief Justice Abbott, that a pew in a chancel may be the freehold of an individual (*r*).

435. It is not necessary that there should be any actual separation between the chapel, the area of which is claimed by prescription, and the body of the church. There are many chapels constituting to the eye, and being in fact,

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TION.

Elsewhere said
that there is no
distinction.

Chapel may be
conveyed with-
out, and cannot
be appurtenant
to a manor.

House need
not be in the
parish.

Chapel need
not be separate
from rest of
church.

(*m*) *Pym v. Gorwyn, Moor*, p. 878; *May v. Gilbert*, 2 *Bulst.* p. 151.

(*n*) *Lousley v. Hayward*, 1 *Y. & J.* p. 586.

(*o*) *Londonderry Cath., Law Tr.*, 8 *N. S.* p. 863.

(*p*) *Chapman v. Jones, L. R.*, 4 *Ex.* p. 288.

(*q*) *Davis v. Witts, Forr.* p. 14; *Lousley v. Hayward*, 1 *Y. & J.* p. 586; *Churton v. Frewen, L. R.*, 2 *Chanc.* p. 634; *Chapman v. Jones, L. R.*, 4 *Ex.* p. 281.

(*r*) *Mainwaring v. Giles*, 5 *B. & A.* p. 361.

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TION.

an integral part of a parish church, and attached to the residence of persons who have landed property in the neighbourhood, and they are frequently treated as free-holds of inheritance (s).

Rector's seat
in chancel.

436. The rector's seat in the chancel, unless it be admitted that he holds it for the purposes of taking part in divine service, is somewhat similar; but though the rector or impropriator is entitled to the chief seat (t), no particular part of the chancel has been at any time specified.

Seat in aisle or
chapel must
appertain to a
house.

437. The right, if in respect to a seat other than in an aisle or chapel, must be claimed as appurtenant to a house, and not to land without a house (u).

Reason for pre-
suming faculty
is necessary.

438. It was said by Lord Stowell that a person claiming a pew must show either a faculty or prescription, which will suppose a faculty. Mere presumption is not sufficient without some evidence on which a faculty may reasonably be presumed (x). It is presumed that he was referring to pews in the body of the church.

Elsewhere said
that faculty
need not be
presumed.

439. Referring to a pew in the chancel it was held by the Privy Council, that there is no necessity to travel out of one's way and set up the scarcely tenable presumption, upon which a prescriptive right to a pew is generally said to be based, that the right commenced by a faculty (y).

Distinction be-
tween aisle and
body of church
said to be un-
founded.

440. It has also been held, that a pew in the *body* of a church may be prescribed for as appurtenant to a house out of the parish, although the origin of the right to the pew cannot be traced. And that the distinction as to such a prescription for a pew in an aisle, but not in the body of the church, is merely made a doubt or question in

(s) Chapman *v.* Jones, *L. R.*, 4 *Ex.* p. 281.

(t) Hall *v.* Ellis, *Noy*, p. 133.

(u) Pettman *v.* Bridger, 1 *Phill.* p. 325.

(x) Walter *v.* Gunner & D., 1 *Hagg. C. R.* p. 322.

(y) Parker *v.* Leach, *Moore's P. C. Rep.*, 4 *N. S.* p. 201.

some of the books ; but that there is no case in support of it, and no distinction in the reason of the thing itself (z).

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TION.

441. But this doctrine may be doubted, because (as it has almost always been held) a prescription presumes a faculty, and it is probable that no faculty could ever have been made by the ordinary in respect of a house *out of* the parish, as a non-parishioner has no common right to cede in return for the exclusive right which a faculty gives ; therefore, such a prescription must fall to the ground (a). It may be argued that the house may originally have been within the ecclesiastical district belonging to the church ; but it must be borne in mind that pews did not exist when the present boundaries of parishes were fixed.

But this doc-
trine ques-
tioned.

442. It was said in the report of a parliamentary committee, that as the body of every parish church belongs of common right to all the parishioners, this right cannot lawfully be defeated by any permanent appropriation of particular places (b).

Denied by par-
liamentary
commission.

443. A prescriptive title to a pew in virtue of the ownership of an estate is a legal absurdity ; a pew can only be annexed by prescription to a house, and the occupier of the house for the time being is entitled to the use of the pew, and not the owner of the estate (c).

Claim in right
of an estate
absurd.

444. The tenants of land might be non-parishioners and could support no temporal right (d). It is in respect to inhabitancy that a pew is to be used (e).

It is in respect
to inhabitancy.

(z) *Lousley v. Hayward*, 1 Y. & J. p. 586 ; 7 *Dowl. & Ry.* p. 564 ; see *Barrow v. Keen, Siderf.* p. 361.

(a) See *Fuller v. Lane*, 2 *Add.* p. 427 ; *Hallack v. Univ. of Cam.*, 1 *Q. B.* 593.

(b) *Rep. of Lords' Committee on Spiritual Destitution* (1858), p. xviii.

(c) *Woollocombe v. Ouldrige*, 3 *Add.* p. 6 ; *Byerley v. Windus*, 5 *B. & C.* p. 19.

(d) *Pettman v. Bridger*, 1 *Phill.* p. 328.

(e) *Gibson's Co.* p. 221 ; *Coke, Litt.* p. 121 b. ; *Byerley v. Windus*, 5 *B. & C.* p. 18.

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TION.

Where mes-
suage not
longer exist-
ing, prescrip-
tion fails.

Owner of house
cannot restrain
occupiers from
use of appur-
tenant pew.

Pew divided if
house divided.

Effect of aban-
donment by
one of owners.

Prohibition of
bishop granted
where wardens
claimed inde-
pendent dis-
posal of seats.

445. In the case of pews claimed as appurtenant by prescription to a messuage or mansion house of an estate which the claimant had purchased, but which messuage is no longer in existence, such claim is bad (*n*).

446. If a seat is appurtenant to a house the owner of the fee cannot restrain his tenant from the use of it, because the seat is for the benefit of the house, namely, for the inhabitants of the house, and not for the benefit of the owner if he cease to inhabit it (*o*).

447. When a right to enjoy a pew is annexed to an old dwelling-house, it may happen that in consequence of such house being sub-divided, three or four families may become entitled to use the pew belonging to the original messuage, and they may require more accommodation. A question may arise how many persons are entitled to use the pew in respect of each of the sub-divisions; but that is a matter to be settled among the respective owners (*p*).

448. There is room to doubt what would be the effect of the abandonment of his right by one of such owners; whether in such case it would revert to the parish, or accrue to the other owners.

449. In the parish of Ludlow the churchwardens, with consent of the parishioners, used to dispose of the seats in the church, and had disposed of certain seats to the bailiffs of Ludlow, which being ruinous, they, by the command of the bailiffs, had pulled down and erected new ones. And as all customs and prescriptions are to be tried at common law, a prohibition of a suit in the bishop's court against the churchwardens for pulling down seats and

(*n*) *Byerley v. Windus*, 5 *B. & C.* p. 19.

(*o*) *Craig v. Watson*, unpub.

(*p*) *Harris v. Drewe*, 2 *B. & Adol.* p. 167.

erecting others without a faculty from the bishop was granted (*q*).

450. But it was elsewhere decided that parishioners cannot prescribe to dispose of pews to the exclusion of the ordinary : the churchwardens and the major part of the inhabitants cannot jostle out his authority (*r*).

451. As to the mode of trying such questions of prescription a nice distinction was made, where it was said, that if one claims to have a *seat* in a church he may maintain *trespass* for infringing it ; but if he only claims *liberty to sit* there, then he has an action *on the case* (*s*).

452. Thus, trespass was held to lie where the pew was in a small chancel or aisle (*quādam cancellulā*), belonging to the owner's house ; and his ancestors and predecessors, time out of mind, had sat in this chancel to hear Divine Service, and had also repaired and locked it. But the reporter of the case thought, without the repair of the aisle *trespass* would not have laid (*s*).

453. There are many authorities which show that the heir may maintain an action against the parson, or others, for the removal of a tombstone ; so also the owner of a pew for violations of the right to enjoy it. In general that right is conferred by the ordinary, and an action *on the case* is the remedy for a mere obstruction (*t*). Therefore an action *on the case*, and not *trespass*, is the proper remedy for the obstruction or disturbance of a pew appurtenant to a house (*u*).

454. An action of trespass will not lie for entering into a pew, because the plaintiff has not the exclusive possession.

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TION.

The reverse
held in all
other cases.

Distinction be-
tween claim to
seat and liberty
to sit there.

Where tres-
pass will lie.

Action on case
for obstruction:
and not tres-
pass.

Claimant has
not exclusive
possession.

(*q*) Colebach *v.* Baldwyn, 2 *Lutw.* p. 1032.

(*r*) Presgrave *v.* Churchw. of Shrewsbury, 1 *Salk.* p. 166; Langley *v.* Chute, *Sir T. Raym.* p. 246.

(*s*) Dawtree *v.* Dee, *Palm.* p. 46.

(*t*) Spooner *v.* Brewster, 3 *Bingh.* p. 138; Co. *Litt.* p. 18 b.

(*u*) Devonshire's case, 36 *Eliz.*, cited in Dawtree *v.* Dee, *Palm.* p. 46.

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TION.

possession, the possession of the church being in the parson. The word possession must always be understood *secundum subjectam materiam* (*u*).

Evidence.

Differing as
against dis-
turb or
bishop.

455. In proving a claim by prescription, there is a great difference whether the claim is sought to be maintained as against a disturber, or against the ordinary (*x*). The ordinary has, *prima facie*, the disposal of all the seats in the church, and a claimant must show some cause, as building, repairing, &c.; but against a stranger who has, *prima facie*, no right, his possession is sufficient ground (*y*).

Claims against
bishop not
favoured.

456. The law does not favour claims against the ordinary, and good ground must be shown before any right against him can be established (*z*).

Are construed
stricti juris.

457. The general right to pews being in the parish and the ordinary, any particular rights in derogation of these are construed *stricti juris*. It is the policy of our law that few of these exclusive rights should exist; it being the object of the law that all the inhabitants should be accommodated (*a*).

What is neces-
sary to allege,
as against
bishop.

458. As against the ordinary the plaintiff should claim it, in his declaration, as *appurtenant* to a house or messuage in the parish (*b*). He should also allege that he repaired it, but this is not necessary in a dispute with a stranger (*c*).

User always.

459. In all cases user must be proved (*d*); though it need not be specifically pleaded (*e*).

(*u*) Stocks *v.* Booth, 1 *T. R.* p. 430.

(*x*) Ayliffe's *Par.* p. 486; Buxton *v.* Bateman, 1 *Keble*, p. 370.

(*y*) Ashby *v.* Freckleton, 3 *Levinz*, p. 73.

(*z*) Walter *v.* Gunner & D., 1 *Hagg. C. R.* p. 323.

(*a*) Pettman *v.* Bridger, 1 *Phill.* p. 324.

(*b*) Stocks *v.* Booth, 1 *T. R.* p. 432, citing Wilson's case.

(*c*) Kenrick *v.* Taylor, 1 *Wils.* p. 327; Ashby *v.* Freckleton, 3 *Lev.* p. 73.

(*d*) Francee *v.* Ley (Star Chamber), *Croke*, 2 *Jac.* p. 366; Boothby *v.* Baily, *Hobart*, p. 69; Knapp & ors. *v.* Nicholl, 2 *Roberts. Eccol. Rep.* p. 365.

(*e*) Merchant *v.* Whitepane, 2 *Lev.* p. 193.

460. Against a disturber a jury ought to presume everything they fairly can presume, unless all ground of presumption be taken away by the facts disclosed at the trial (*f*).

CAP. II.
PRESCRIP-
TION.

Presumption
against a dis-
turbler.

461. It is impossible to determine *a priori* what evidence will or will not be sufficient to support a right; it must vary in each particular case (*g*).

What evidence
is necessary.

462. It would take very strong evidence to induce a belief that the bishop would grant a faculty to erect a seat in a chancel belonging to a lay or clerical rector (*h*).

And for
chancel seat.

463. Long user and repair are the two main points to be proved in a claim by prescription. Where a church had been rebuilt forty years previously, and the plaintiff was proved to have occupied a seat for thirty-six years, Willes, J., said it was very common, after rebuilding, to leave adjustment to rector and churchwardens, and he supposed the plaintiff got his pew thus, in right of his messuage. But after so long a possession he would presume anything in favour of the plaintiff (*i*). This was apparently upon the rule of presuming everything that can be presumed as against a wrongdoer. But here it may have been assumed that the right was acquired in the original building, and continued only, not commenced, in the new one.

Long user and
repair are
main points.
36 years suffi-
cient where
church rebuilt
about same
time.

Everything
presumed
against a
wrongdoer.

464. Where it appeared that the seat itself was built thirty-five years ago, for the accommodation of the plaintiff and to put an end to a dispute between two families, this proof was holden to rebut the presumption which would otherwise arise from so long a possession (*k*).

Claim for pew
built thirty-five
years failed.

(*f*) *Griffith v. Matthews*, 5 T. R. p. 298.

(*g*) *Griffith v. Matthews*, 5 T. R. p. 298; *Pepper v. Barnard*, 12 Law J. (Q. B.) p. 361; and 7 Jur. p. 1128.

(*h*) *Morgan v. Curtis*, 3 M. & Ry. p. 390.

(*i*) *Rogers v. Brooks*, cited in *Stocks v. Booth*, 1 T. R. p. 431, n.; *Morgan v. Curtis*, 3 M. & Ry. p. 394.

(*k*) *Griffith v. Matthews*, 5 T. R. p. 298.

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PRESCRIPTION.

Sixty years' possession is insufficient.

House built eighty years insufficient.

Thirty-eight years of chancel seat by tenant of manor house.

Thirty-five years' possession is sufficient as against disturber.

Non-user accounted for.

465. Possession of a pew in a church for above sixty years is not a sufficient title to maintain an *action on the case* for disturbance in the enjoyment of it; the plaintiff must prove a prescriptive right, or a faculty, and should claim it in his declaration *as appurtenant to a messuage* in the parish (*l*).

466. In a claim for prescription for pew as appurtenant to a house, it appeared that the house had been built only eighty years, which was not sufficient to give a prescriptive right; because it might be presumed that evidence of the grant of a faculty was not extinct in that time (*m*).

467. Occupancy for thirty-eight years of a pew in the chancel by the tenant, and with permission of owner of house to which it was claimed as appurtenant, is sufficient to enable occupier to successfully maintain a suit for perturbation of seat against the incumbent who had pulled down the pew (*n*).

468. In an action for disturbance evidence of continued possession for thirty-five years, unanswered and unexplained, would have been sufficient to support the plaintiff's claim (as against disturber); and it was said that a jury would have been warranted in presuming that a faculty had been granted to the plaintiff's ancestor to build this pew in the chancel. But the case was not decided upon this ground, as it was shown that the site had been previously occupied by an open seat in common occupation, which destroyed the presumption (*o*).

469. Non-user for twenty years would be nearly, if not quite, conclusive against a claim by prescription (*p*). And

(*l*) *Stocks v. Booth*, 1 *T. R.* p. 428.

(*m*) *Walter v. Gunner & D.*, 1 *Hagg. C. R.* p. 319.

(*n*) *Parker v. Leach*, *Moore's P. C. Rep.*, 4 *N. S.* p. 180.

(*o*) *Griffith v. Matthews*, 5 *T. R.* p. 298.

(*p*) *Pettman v. Bridger*, 1 *Phill.* p. 328.

the reason why a pew has for a long time been unoccupied by the owner may be explained to the jury. Thus, where the plaintiff was of the Roman Catholic religion, and her servants had frequently been of the same persuasion, the use of two pews belonging to the house was much less than, under other circumstances, would have been expected; and this was stated as accounting for the non-user (*q*).

470. An occupation by a person and his ancestors, even for 110 years, has been held insufficient, it appearing that at the commencement of that time the pew was annexed by an agreement with the vestry (*r*).

471. In a case where a pew in the chancel was built by the rector in 1797 for the occupation of his family resident in a new house, and after his death used by the tenants of the same house till 1829, and a question then arose whether the pew had become appurtenant to the house, it was considered that no prescriptive rights had been acquired (*s*).

472. Length of time avails nothing where the origin is known (*t*).

473. In one case where a pew was prescribed for in respect of a house, affidavits were made that the person so prescribing was not nor is an inhabitant there; but it was held that *possession* only, without living there, is enough (*u*). But this may be doubted.

474. On the other hand it was held that, as a pew would generally go with a house, mere occupation *alone* is not sufficient to force the jury to find a right (*v*).

475. Repair by the claimant is also generally deemed

So 110 years' possession
commencing
with grant by
vestry.

Thirty-two
years insuffi-
cient for seat
in chancel.

Plea of time
fails if origin
be known.

Possession
without in-
habitancy of
house suffi-
cient(?)

Occupation
alone not
sufficient.

Repair is gene-
rally necessary.

(*q*) *Pepper v. Barnard*, 7 *Jur.* p. 1129.

(*r*) *Fuller v. Lane*, 2 *Add.* p. 432.

(*s*) Opinion of Dr. Lushington (MS.).

(*t*) *Blake v. Usborne*, 8 *Hagg.* p. 733.

(*u*) *Vin. Abr. "Prohibition"* (G.); *S. C. Anon.* 12 *Mod.* 40.

(*v*) *Morgan v. Curtis*, 3 *M. & Ry.* p. 394.

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PRESCRIP-
TION.

Doubted
whether essen-
tial even
against war-
dens.

Not necessary
against dis-
turber.

Formerly un-
decided where
no repairs have
been necessary.

Now held not
absolutely
necessary.

But, if any,
must have
been done by
inhabitants of
house.

Aisle belongs
to parish, if
repairers.

a necessary element in support of his claim (*x*) ; though not in respect to a seat in the chancel as against a disturber (*y*).

476. In the case of *Pepper v. Barnard* (*z*), the court would not decide whether, in an action against churchwardens for disturbance of a pew, proof of repairs is necessary.

477. It is otherwise as against a disturber, for it is a rule of law that one in possession need not show any rule or consideration against a wrongdoer.

478. What might be the effect of a very long occupancy, where no repairs have been *necessary*, does not appear to have been decided (*a*).

479. But it was held in a modern case, that evidence of the fact of repair is not absolutely necessary, simply because repair may not, within the memory of any one living, have been required (*b*).

480. If any repairs have been required within memory, it must be proved that they have been made at the expense of the party setting up the prescriptive right. The *onus* and *beneficium* must go together :—mere occupancy does not prove the right (*c*).

481. When an aisle has been used to be repaired at the charge of all the parish in common, the ordinary may appoint whom he pleases to sit in it, notwithstanding any usage to the contrary (*d*).

(*x*) *Ayliffe's Parer.* p. 486; *Frances v. Ley, Croke, 2 Jac.* p. 366; *Boothby v. Bailey, Hobart*, p. 69; *Buxton v. Bateman, 1 Keble*, p. 370; *Woollocombe v. Ouldridge, 3 Add.* p. 6.

(*y*) *Buxton v. Bateman, 1 Keble*, p. 370.

(*z*) *Pepper v. Barnard, 7 Jur.* p. 1129.

(*a*) See *Pettman v. Bridger, 1 Phill.* p. 325.

(*b*) *Knapp v. Nicholl, 2 Roberts. Eccl. Rep.* p. 366.

(*c*) *Pettman v. Bridger, 1 Phill.* p. 325.

(*d*) *Frances v. Ley, Cro. Jac.* p. 366.

482. Very slight repair will, therefore, suffice; and, as thirty years in the Ecclesiastical Courts constitute a prescription, it is not necessary to go back further with evidence of repair (*e*).

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TION.

Evidence of
repair during
thirty years
sufficient.

483. Cleaning done by the parish is not repair to affect a prescriptive right (*f*).

Cleaning is not
repair.

484. Lining a pew and putting in cushions is not to be a repairing, or an act of ownership, it being a mere question of comfort (*g*).

Nor lining.

485. Constant sitting and burying, without using to repair, does not suffice (*h*).

Sitting and
burying alone
not sufficient.

486. The fact of repair must be pleaded in order to maintain a claim as against the ordinary (*i*).

Repair must be
pleaded as
against bishop.

487. If repair were at any time done at the expense of the parish, that circumstance would tend strongly against a claim by prescription (*k*).

Repair by
parish adverse
to prescription.

488. The ordinary has *prima facie* the disposal of all the seats in the church, and against him a title or consideration must be shown in the declaration and proved (*l*).

Title must be
pleaded and
proved as
against bishop.

489. As against a disturber the plaintiff may declare upon his possession, without alleging usage to repair, prescription, or other ground of action, for that may be proved in evidence (*m*).

Sufficient to
plead posses-
sion as against
disturber.

(*e*) Knapp *v.* Nicholl, 2 *Roberts. Ecol. Rep.* p. 367.

(*f*) Churton *v.* Frewen, *L. R.*, 2 *Ex.* p. 657.

(*g*) Morgan *v.* Curtis, 3 *M. & Ry.* p. 393; Pettman *v.* Bridger, 1 *Phill.* p. 332.

(*h*) Frances *v.* Ley, *Croke*, 2 *Jac.* p. 366.

(*i*) Stedman *v.* Hay, 1 *Comyn's Rep.* (2nd ed.), p. 368; Bradbury *v.* Burch, 1 *Jones*, p. 4; Ashby *v.* Freckleton, 3 *Lev.* p. 73; Fuller *v.* Lane, 2 *Add.* 427.

(*k*) Knapp *v.* Nicholl, 2 *Roberts. Eco. Rep.* p. 366; Frances *v.* Ley, *Croke*, 2 *Jac.* p. 366.

(*l*) Burn's *Ecol. L.* p. 362; Kenrick *v.* Taylor, 1 *Wilson*, p. 326.

(*m*) Comyn's *Dig.* "Action on Case for Disturbance" (A. 3); 1 *Lev.* p. 71; 2 *Lev.* p. 198; 3 *Lev.* p. 78; 1 *Sid.* pp. 88, 203.

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PRESCRIP-
TION.

Usual form of declaration.

Repair of one pew, evidence as to all under same title.

Repair by a corporation good.

Cost may be charged to borough.

Rebuilding by parish acts as a cession.

490. The usual mode of declaring in an *action on the case* for disturbance is, to the effect that the plaintiff was possessed of a certain messuage, and, by reason thereof, ought to have for himself and family, inhabiting the said messuage, the use and benefit of a certain pew in the chancel (or otherwise) of the church of to hear and attend divine service therein, as to the said messuage belonging and appertaining (*m*).

491. An *action on the case* being brought against the churchwardens, it appeared, that so far as living memory extended, there had been three pews adjoining each other—one used by the family, another by their servants, and a third by a farmer residing on a farm, the house belonging to which was the ancient mansion of the family. It was held that proof of repairs done to one of these pews was evidence as to all, and, therefore, included the pew in question (*n*).

492. It has been held a good prescription to say, “that time out of mind the corporation did repair such an aisle of the church, *ratione cuius* the mayor and aldermen sat there.” For though the right be in the whole body, the enjoyment may be and enure to a select number (*o*).

493. Where the members of a corporation have, as such, occupied a particular pew in the parish church, the repairs of it may be properly charged on the borough fund (*p*).

494. Where a pew has been rebuilt by the parish, there would be a cession of the pew to the parish, unless some express agreement to the contrary could be shown (*q*).

(*m*) Stocks *v.* Booth, 1 *T. R.* p. 430; and see Morgan *v.* Curtis, 3 *M. & Ry.* p. 389.

(*n*) Pepper *v.* Barnard, 7 *Jur.* p. 1128.

(*o*) Jacob *v.* Dally, 6 *Mod.* p. 231.

(*p*) Reg. *v.* Mayor of Warwick, 10 *Jur.* p. 262, and 15 *L. J., Q. B.* p. 306.

(*q*) Pettman *v.* Bridger, 1 *Phill.* p. 329.

495. But where the pew has been destroyed by the parish in consequence of the rebuilding of the church, and without the consent of the owner, that fact could not divest him of his right to a pew built on the same spot (*r*).

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TION.

Not so when destroyed by rebuilding the church.

496. Payment of rent proves that those who paid it could have no exclusive rights either by faculty or prescription (*s*).

Rent is conclu-
sive against
claim.

497. An old entry in the vestry book, signed by the churchwardens, stating that the pew had been repaired by a former owner of the messuage, under whom the plaintiff claimed, in consideration of his using it, was held to be admissible evidence in support of the plaintiff's right, as having been made by the churchwardens within the scope of their official authority (*t*). (So given by Taylor on Evidence (*u*)). *Sed quære.* As reported, the entry seems rather to indicate a commencement of occupation, and, by showing the date of origin, to put an end to a claim by prescription).

Entry in vestry
book by
wardens good
evidence.

498. But old entries in a vestry book made by a church-warden, apparently not in the discharge of any public duty, and by which he has not charged himself, but merely memoranda of repairs done, are not evidence (*x*).

But not unless
officially en-
tered.

499. A hatchment and inscription, certainly more than 100 years old, though not thrown out of consideration, but giving it all its just weight, is only an element in the case of ownership (*y*).

Hatchment and
inscription may
assist proof.

500. The fact of a pew having formerly been open would operate very strongly against any claim to a prescription, because the difference between an open and a

Strong adverse
probability
where pew was
formerly open.

(*r*) *Swetnam v. Archer*, 8 *Mod.* 338.

(*s*) *Parham v. Templar*, 3 *Phill.* p. 518.

(*t*) *Price v. Littlewood*, 3 *Camp.* p. 288.

(*u*) *Taylor on Evidence*, p. 1415, par. 1578.

(*w*) *Cook v. Banks*, 2 *C. & P.* p. 478.

(*y*) *Chapman v. Jones*, *L. R.*, 4 *Ex.* p. 283.

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TION.

closed pew is so strong, that the probability is, that so soon as the party had ascertained his rights, he would inclose; the fact of the seat having formerly been open, destroys the prescription (*y*).

Enlarging gives strong adverse inference.

Priority in seat may be prescribed for.

Also any particular place in a seat.

In contentions about priority, bishop may inhibit temporarily.

Joint prescription, whether tenancy in common or otherwise.

501. The fact of enlarging a pew, though it would not of itself destroy the prescriptive right, may operate on a jury as to the existence of such prescriptive right; since if it existed, the party would have put it in hazard by the enlargement (*z*).

502. Where a man claimed the upper place in a seat in the church, and was disturbed in a violent manner; and the bishop sent an inhibition against the former until the matter should be determined before him; a prohibition was granted, because as well the priority in the seat as the seat itself may be claimed by prescription (*a*).

503. In like manner may an inhabitant, in respect of his house, prescribe to first, second or third place in the same seat, which has immemorially been repaired by him, and the rest who jointly sit with him (*b*).

504. If there be any contention about the priority, the bishop may inhibit them from making a disturbance until the controversy be tried in the temporal court, and may excommunicate the disturbers (*c*).

505. If two pretend to have title to a seat by prescription, and thereupon jointly bring an *action on the case* for a disturbance, and declare upon a joint right and prescription; if upon the evidence it shall appear that they are not joint tenants, but tenants in common, they cannot recover, but must be nonsuited. Because such evidence does not

(*y*) *Morgan v. Curtis*, 3 *M. & Ry.* pp. 390, 392.

(*z*) *Ibid.* p. 393.

(*a*) *Carleton v. Hutton, Noy*, p. 78, and *Latch*, p. 116, and *Palm.* p. 424.

(*b*) *Prid.* p. 300.

(*c*) *Carleton v. Hutton, Noy*, p. 78, and *Latch*, p. 116, and *Palm.* p. 424; *Buxton v. Bateman*, 1 *Sid.* p. 89.

maintain the title upon which they bring their action, and as tenants in common they cannot make a joint prescription, but ought to prescribe severally (*d*).

CAP. II.
PRESCRIP-
TION.

506. As to the abandonment of an admitted right by prescription, there seems a doubt as to the necessary means. In a case where the owner of a chapel agreed that the churchwardens should partition off and fit up part, and place parishioners there ; which being done at the expense of the parish, he revoked the permission and brought an action against the churchwardens for disturbance ; it was held in the Queen's Bench, on the authority of *Wood v. Leadbitter*, that there having been no deed there was no grant, and the plaintiff might revoke the licence (*e*).

Abandonment
of right by
prescription.

Grant under
seal necessary.

507. *Sed quære.* It is not an easement in land ; the plaintiff has nothing in the soil of the pew, nor does the agreement profess to convey any easement to the defendant, which distinguishes it from that case. An easement cannot be granted save by deed. Had this licence been to do an act on the plaintiff's soil, it might have been revocable as being a grant of an easement, and yet not under seal ; but it is to do an act on the soil of another, for the pew is the rector's freehold (*f*). (As to abandonment of right of way by non-user, *Ward v. W.*, 21 *L. J. (Exch.)* 334 ; and *Queen v. Chorley and anor.*, 12 *Q. B.* 515.)

Doubt as to
necessity for
grant under
seal.

508. In the case referred to as the authority for the decision, it was held that a licence under seal, if a mere licence, is as revocable as a licence by parol ; and a licence by parol coupled with a grant of a nature capable of being made by parol, is as irrevocable as a licence by deed. But a licence by parol, coupled with a parol grant or pretended grant of something which can only be granted by deed, is

Licence, if not
necessarily
under seal,
is revocable by
parol.

(*d*) *Snelgrave v. Brograve*, *Palm.* p. 161; *Watson*, p. 387.

(*e*) *Adams v. Andrew*, 15 *Q. B.* p. 284.

(*f*) *Oliphant*, pref. xv.; referring to *Adams v. Andrews*.

CAP. II.
PREScrip-
TION.

Permitted
use by tenant
for twenty
years is vir-
tually an aban-
donment.

Facilities for
surrender
given by Act of
1869.

Materials in
nature of heir-
loom.

What are heir-
looms.

a mere licence : it is not an incident to a valid grant, and is therefore revocable (*g*).

509. A pew annexed to a mansion by a prescriptive title, and formerly used by the servants of the family, had been occupied upwards of twenty years by a tenant of some of the land belonging to the estate. This tenant continued to use the pew until his death, which took place three years after the expiration of his tenancy. The owner of the mansion had lined and cushioned the pew to accommodate his visitors, when that in his own occupation was full. It was held that the fact of another person (a tenant on the estate), having had possession for so long a time, was virtually an abandonment of the right to the pew (*h*).

510. By an Act passed in 1869, whenever by virtue of any public or private act, or any deed or instrument, any sittings in a church or chapel of the Church of England are subject to any trust as to the grant, demise, sale or disposal thereof, or are the private property of any person, the trustees or other persons are empowered to surrender the same absolutely by deed to the bishop, or the ecclesiastical commissioners; and such sittings then become subject to the same laws, as to all rights and property therein, as the pews and sittings of ancient parish churches are now subject to (*i*).

511. The property in the materials of a pew held, or once held by prescription, resembles that in a monument, and is in the nature of an heirloom (*k*).

512. And heirlooms are such things as go by special custom and not by common law (*l*); the termination *loom*

(*g*) *Wood v. Leadbitter*, 18 *M. & W.* p. 838, and *Law J. Rep.*, 14 *N. S.*, *Ex.* p. 161.

(*h*) *Pettman v. Bridger*, 1 *Phill.* p. 331.

(*i*) 32 & 33 Vict. c. 94, ss. 2, 3 & 5.

(*k*) *Corven's case*, 12 *Co. Rep.* p. 106; 3 *Blackst. Com.* p. 429.

(*l*) 14 *Vin. Abr.* p. 291.

is derived from the Saxon word Leome, which signifies a limb, branch or member (*m*), so that an heirloom is nothing else but a limb, branch, or member of the inheritance (*n*).

CAP. II.
PREScrip-
TION.

513. Now, monuments, coats of arms painted in the windows or elsewhere, pennons, hatchments, &c., put in the church for the memory of the deceased buried there, are a sort of heirlooms, and when once regularly set up they cannot be pulled down again, either by the churchwardens, minister, or ordinary, because they belong to the heir (*o*).

514. The right of property in the wood-work of a pew, held by a prescriptive title and good against the ordinary, appears to be similar to that in a monument. In each case the material is attached to the parson's freehold, and in neither case can he pull the erection down (*p*). And Mr. Justice Dodderidge seems to have been of this opinion in the case he mentioned during the argument in Gilbert's case (*q*).

515. Now, as the property in monuments, tombs, &c., remains in the heir (*r*), and does not go to the parson, who has the freehold, it would seem that, *à fortiori*, a person erecting a pew, or the owner of one already erected, on a place to which he has a prescriptive right against the ordinary, in respect of a house or messuage in the parish, has some property in the wood-work of the pew.

516. And in the celebrated case of Lady Wyche, in 1468, which was a suit in the King's Bench against the parson for removing the coat-armour and pennons of arms

Lady Wyche's
case in 1468.

(*m*) Bosworth's *Anglo-Saxon Dio.* s. v.; 2 *Bla. Com.* p. 427; *Co. Litt.* p. 18 b.

(*n*) 2 *Steph. Com.* p. 242 (6th ed.).

(*o*) *Prid.* p. 101; 3 *Co. Inst.* p. 202; Corven's case, 12 *Co. Rep.* p. 105.

(*p*) See Degge, pt. 1, cap. xii.

(*q*) *May v. Gilbert*, 2 *Buls.* p. 151.

(*r*) Degge, pt. 1, cap. xii.

CAP. II.
PREScrip-
TION.

Cloth provided by parish and hung up in church, rector cannot remove.

Materials of pews erected by others do not belong to clergy or wardens.

Apparently to owner of pew.

Action for pulling down, not maintainable by invalid grantee.

Claims for pre-
scription fre-
quent cause of
litigation.

and sword of Sir Hugh Wyche, her late husband, from the chapel where he was buried; and was decided in her favour. The reporter or compiler adds: “Query as to this matter, for I understand that the oblation shall be adjudged according to the intent of the donor” (*s*).

517. And even in a case where black cloth had been hung up in a church, in memory of the Princess Charlotte, and no agreement had been entered into with the rector, it was held, by Mr. Justice Bayley, that the rector had no right to take any of the cloth, because by law he was not entitled to take such a property, unless by matter of agreement with the parties to whom it belonged (*t*).

518. The churchwardens cannot claim the materials of pews they have *not put up*, and the clergyman has them only when the pew has been built by a person having *no right to put them there*: therefore the property in the materials of a pew built by a person having a prescriptive title, is neither in the clergyman nor churchwardens.

519. Consequently, assuming, as it has been decided, that a person can have a prescriptive right to a pew against the ordinary, the materials, when taken down, would certainly seem to belong to the owner of the pew.

520. As a grant of a part of a chancel, by a lay impro-
priator to a man and his heirs and assigns, is not valid in law, the grantees or those claiming under him can-
not maintain an action for pulling down pews there
erected (*u*).

521. One very detrimental effect arising from prescriptive titles is their giving rise to an infinite number of claims founded on possession only, and which, should they be investigated, might not be legally maintainable. Since,

(*s*) *Year Book*, 9 Ed. IV. (ed. 1597, p. 14).

(*t*) *Cramp v. Bayley*, *Degge's P. C.*, Ellis' ed. p. 218, n.

(*u*) *Clifford v. Weeks*, 1 *B. & A.* p. 498.

for practical purposes, it is not easy to define what is absolutely necessary to constitute prescription, claims are set up of a doubtful character, which greatly impede the churchwardens, and in some cases the court, in making arrangements for the distribution of the church room, which the interests of the parish most require (*v*).

522. Prescription is said to be the highest kind of title, and one which can only be altered by Act of Parliament. A recent Act has lately meddled with such titles. The Act for uniting city churches provides that where parishes have been united, the bishop may issue a faculty to alter and re-adjust the seats and their appropriation, so that at least half be unappropriated; and the remainder shall be at the disposal of the churchwardens (under the control of the bishop) for the use of the parishioners of the united parishes, discharged from all prescriptive and other pre-existing rights (*x*).

523. As it has already been stated, the Ecclesiastical Court has power to try all questions respecting pews, except where a prescriptive right intervenes and is not admitted (for if the prescription be admitted the Ecclesiastical Court may go on with the cause [*y*], because it has jurisdiction over the subject-matter).

524. In like manner the interference of any other court with the Ecclesiastical Court may be stopped by prohibition. Thus in a suit before the Court of High Commission at York against a clergyman for non-residence, disturbing some of the congregation in church, and other disorderly conduct, a prohibition was granted, for the complaint in such matters ought to be made to the ordinary (*z*).

Prescription affected by Act for union of city churches.

Jurisdiction of Ecclesiastical Court.

Prohibition of any other court interfering.

(*v*) *Report on Eccl. Courts*, 1832, 12mo. ed. p. 131.

(*x*) 23 & 24 Vict. c. 142, s. 28.

(*y*) *Jacob v. Dallow*, 2 *Salk.* p. 551, and 2 *Ld. Raym.* p. 755; *Fall v. Hutchins*, 2 *Convp.* p. 424.

(*z*) *Howson's case*, *Litt. Rep.* p. 152.

CAP. II.
PRESCRI-
PTION.

Prohibition
may be granted
by King's
Bench, Ex-
chequer or
Chancery.

Abuses arising
from lavish
prohibitions at
one time.

Grounds of
prohibition are
defect of juris-
diction, or in
mode of trial.
Ecclesiastical
Court cannot
try question of
fact.

525. Where there is a question of prescription to be tried, the power of the Ecclesiastical Court ceases (except by consent of parties), and any attempt to exercise such power may be at once met by a prohibition granted by the King's Bench (*a*), or Exchequer (*b*), or Chancery (*c*).

526. It would appear from certain *Articles touching abuses in the granting of Prohibitions*, exhibited by Archbishop Bancroft, in the name of the whole clergy, to the Lords of the Privy Council in 1603, that prohibitions of the Ecclesiastical Courts were granted freely and often on very frivolous pretences, at any time in the suit and after several sentences, and even at the instance of the plaintiff in the suit; causing great expense, and repeatedly to the extent of as many as six prohibitions and consultations in one suit; and were only removable by consultation after a length of time, and at great cost, although the prohibition was granted quickly, on *ex parte* statement and in chambers. And the king's authority was greatly impugned by such prohibitions (*d*). The subject continued for a long time under consideration (*d*).

527. The general grounds of a prohibition to the Ecclesiastical Courts are either a defect of jurisdiction, or a defect in the mode of trial. If any fact be pleaded in the Ecclesiastical Court and the parties are at issue, that court has no jurisdiction to try it, because it cannot proceed according to the rules of common law, and in such case a prohibition lies. Or where the Spiritual Court has no original jurisdiction a prohibition may be granted (*e*).

(*a*) *Witcher v. Cheslom*, 1 *Wilson*, p. 17.

(*a*) *Smyth's case*, 2 *Cromp., Mees. & R.* p. 754.

(*b*) 1 *Peer Wms.* p. 43.

(*c*) 2 *Coke's Inst.* p. 602.

(*d*) As appears, *e. g.*, from a letter from the Archbishop to the Bishop of Worcester in 1608-9, Worcester Registry, *Reg. Bulningham*.

(*e*) *Leman v. Goult & anor.*, 3 *T. R.* p. 4.

528. But otherwise if the prescription be admitted as a defendant does a modus or pension by prescription (*f*).

529. The Spiritual Court may in several cases proceed upon libels grounded on prescription where the prescription is not denied (so that such suits are not absolutely *coram non judice*); and the reason why a prohibition shall be granted where the prescription or custom is denied, seemeth to be this; that the notion of customs and prescriptions is different, by the ecclesiastical law, from what it is at common law as to the time in which such custom or prescription may be created; for the ecclesiastical law allows of different times in creating customs or prescriptions, and generally of less time than is allowed of in common law, which owns no time in such case, but that whereof there is no memory of man to the contrary (*g*).

530. Prohibitions are granted either absolutely, or *quousque*, only till such an act be done; *e.g.* the denial of a copy of the libel, when the prohibition is *ipso facto* discharged by granting the copy. The first of these is peremptory, and ties up the inferior jurisdiction until a consultation; the second is *ipso facto* discharged upon performing the act (*h*).

531. A prohibition is commonly said to be a charge, by the king's writ, directed to the Spiritual Court, forbidding them to proceed further in a certain cause then depending, formerly upon a suggestion, but now on an affidavit, either that the cognizance of the cause does not belong to them; or that they are dealing with some point beyond their jurisdiction; or that they are proceeding otherwise than the law warrants (*i*).

CAP. II.
PRESCRIP-
TION.

May proceed if
prescription be
admitted.

Reason for pro-
hibition, in dif-
ferring time of
prescription.

(*f*) Jacob *v. Dallow*, 2 *Salk.* p. 551, and *Ld. Raym.* p. 755.

(*g*) Watson, c. 39; Burn, p. 366.

(*h*) Bac. *Abr.* "Prohibition" (F); Anon. 6 *Mod.* p. 308.

(*i*) Ayliffe's *Parerg.* p. 435; Wood's *Inst.* p. 525.

CAP. II.
PRESCRI-
PTION.

Granted for want or excess of jurisdiction, or for defect of trial.

Prohibition when plea of prescription was rejected.

For a seat, only on account of prescription.

Unsound discretion is subject of appeal, not prohibition.

Want of original jurisdiction is fatal.

532. Prohibition may be granted where it is shown that the court is proceeding contrary to the general law of the land, or beyond its jurisdiction (*h*), and either from want or excess of original jurisdiction or defect of trial; thus where an issue is raised upon a question of fact, which can only be tried by a jury in the temporal court (*i*).

533. In a suit in the Ecclesiastical Court upon an application for a faculty for a seat, a prescriptive right to the pew as appurtenant to a messuage and always repaired, was pleaded in opposition; but the court rejected the plea. Prohibition was granted both for want of jurisdiction and want of trial (*k*).

534. Where a person is sued in the Ecclesiastical Court for a seat in the church, if he would obtain a prohibition and oust the ordinary of jurisdiction, he must show such a legal title as cannot be tried in the Ecclesiastical Court, and this can only be by prescription (*l*).

535. If an unsound discretion be exercised by the Ecclesiastical Court, it is a ground of appeal (*m*). Thus if the ecclesiastical judge give a wrong sentence on the merits, where he has jurisdiction, that is the subject-matter of appeal, and *not* of prohibition (*n*).

536. It is very clear that an Ecclesiastical Court cannot proceed in any cause, where it has not an original jurisdiction of the subject-matter; and if it does, a prohibition goes of course (*o*).

(*h*) *Ex parte Smyth*, 2 *Crompt.*, *M. & R.* p. 754; and 5 *Nov. & M.* p. 149; 5 *Adol. & E.* p. 724; 1 *Har. & W.* p. 419.

(*i*) *Byerley v. Windus*, 5 *B. & C.* p. 1; *Hallack v. Univ. of Cam.*, 1 *Q. B.* p. 615.

(*k*) *Swetnam v. Archer*, 8 *Mod.* p. 338.

(*l*) *Stedman v. Hay*, 1 *Com. R.* p. 368.

(*m*) *Butt v. Jones*, 2 *Hagg.* p. 424.

(*n*) *Leman v. Goultby*, 3 *T. R.* p. 5; *Griffin v. Ellis*, 11 *A. & E.* p. 756.

(*o*) *Darby v. Cosens*, 1 *T. R.* p. 555.

537. Thus prohibition lies when one sues another in the Spiritual Court for a lay fee, that is, for lands or tenements, &c. (p).

CAP. II.
PRESCRIP-
TION.

As in suit for
a lay fee.

Or for a chat-
tel or trespass.

Or for break-
ing open a
chest and tak-
ing away title-
deeds of ad-
vowson.

538. And if one sues another in the Spiritual Court for a chattel, a debt or a trespass, prohibition lies (q).

539. Thus a prohibition was granted to stay a suit in the Spiritual Court, for breaking open a chest in the church, and taking away the title-deeds of the advowson, because the title-deeds being subject of the suit, only *trespass* or *trover* could be maintained in the temporal courts for taking them (r).

540. But where a person was libelled in the Spiritual Court for taking the church bells, the Court of Queen's Bench refused to grant a prohibition, because though the churchwardens might have maintained an action at common law, the most proper remedy was in the Spiritual Court (s). The parties who libelled being *custodes* of the property, and the bells being the goods of the church (t).

Spiritual
Court has
jurisdiction
respecting re-
moving the
church bells.

541. A person (? parson) libelled against the defendant in the Spiritual Court of York for having cut elms in the churchyard; and a prohibition was granted, upon suggestion that they grew on his freehold (u).

Nor for cutting
trees in
churchyard.

542. And a suit cannot be maintained in the Ecclesiastical Court, against a churchwarden, for breaking a church wall, and cutting down the boughs of trees in a churchyard. For the rector having a freehold in him has a right to bring his action; and, therefore, the party must

Nor for break-
ing church
wall.

(p) *F. N. B.* p. 40 (I.); *Vin. Abr.* "Prohibition" (F. 1).

(q) *F. N. B.* p. 40.

(r) *Gardner v. Parker*, 4 *T. R.* p. 351.

(s) *Welcome v. Lake*, 1 *Sid.* p. 281; 2 *Keb.* p. 22.

(t) *Gardner v. Parker*, 4 *T. R.* p. 351; but see *Starky v. Churchwardens of Watlington*, 2 *Salk.* p. 547.

(u) *Hilliard v. Jeffreson*, 1 *Ld. Raym.* p. 212.

CAP. II.
PREScrip-
TION.

Most prohibitions granted for excess of jurisdiction.

Prohibition granted for defect of trial.

As in matters properly triable at common law.

If for sake of trial, must be before sentence.

Object of King's Bench in making such rule.

not be subjected to a double prosecution (*x*). The ordinary cannot punish a single trespass in the church which does not hinder the service; which is included under the statute *Circumspectè agatis—de ecclesiâ discooperâtâ*.

543. The largest class of cases, in which prohibitions have been granted by the Queen's Courts at Westminster, is, where a plain and manifest excess of jurisdiction has appeared to have been claimed or exercised by the Ecclesiastical Court (*y*).

544. Temporal incidents are to be tried according to the rules of common law (*z*); and if they are handled differently, it is a *defect of trial*, for which a prohibition will be granted.

545. Where matters are properly and essentially triable at common law, and the party comes for a prohibition before sentence, the Court of Queen's Bench will grant it, *for the sake of trial*. But if the party submit to trial, he is afterwards too late (*a*).

546. In case of prohibition to be granted for the sake of trial (as distinguished from those which are to be granted upon account of a wrong trial or erroneous judgment), the rule is established, that a party neglecting to contest the jurisdiction in the first instance, and taking his chance of a favourable decree, shall not be allowed, after sentence, to allege the want of jurisdiction as a ground of prohibition, unless the defect appear on the face of the pleadings.

547. The justice of this rule is very apparent—the propriety of the exception, scarcely less so; for it is the duty of the Court of King's Bench to restrain any encroachment

(*x*) *Binsted v. Collins, Buntb.* p. 229.

(*y*) *Veley v. Burder, 12 A. & E.* p. 311.

(*z*) *Shotter v. Friend, 2 Salk.* p. 547.

(*a*) *Full v. Hutchins, 2 Conv.* p. 424.

of jurisdiction on the part of the inferior courts; and, therefore, it interferes for the sake of the public, and not of the individual, where from the want of jurisdiction appearing on the face of the proceedings the case might become a precedent if allowed to stand without impeachment (b).

548. It may be conceded that in cases where it is shown that an inferior court is proceeding beyond its jurisdiction, a party is entitled to a writ of prohibition, not as a matter of discretion, but *ex debito justitiae* (c).

549. The Court of Chancery may award a prohibition, which may issue as well in vacation as in term time; but such writ is returnable into the Queen's Bench, or Common Pleas (d).

550. On a motion for prohibition there must be an affidavit that the matter suggested to have been pleaded, was pleaded in the Spiritual Court (e).

551. A defendant cited in an Ecclesiastical Court must appear before he can apply for a prohibition (f).

552. No prohibition will be granted where there is neither plea nor allegation leading to an issue on any matter which the Spiritual Court is incompetent to determine (g).

553. When it is pleaded, it ties up the hands of the ordinary from any further proceeding, because the Spiritual Court cannot try a prescription (h).

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PREScrip-
TION.

(b) Bodenham & ors. v. Ricketts, 6 Nev. & Man. p. 176; 4 Ad. & E. p. 441; 1 Har. & Wol. p. 754.

(c) Ex parte Smyth, 2 Cromp. M. & R. p. 754.

(d) Bro. Abr. "Prohibition," part 6; 4 Inst. p. 81; 1 Peere Wms. p. 43.

(e) Burdett v. Newell, Ld. Raym. p. 1211.

(f) Ex parte Law, 2 A. & E. p. 45; Rex v. Mills, 4 N. & M. p. 7.

(g) E. of Beauchamp v. Turner, 10 A. & E. p. 221.

(h) Swetnam v. Archer, 8 Mod. p. 338.

CAP. II.
PRESCRIP-
TION.

Both parties must plead. Prohibition grantable as soon as prescription is denied.

Where Ecclesiastical Court has jurisdiction as to part of question.

No interference with suit about faculty to confirm alterations.

Galleries built under faculties to University, which claimed a subsequent addition.

554. But the parties must plead, for perhaps they may admit the plea (*i*).

555. But when once it appears by the proceedings in the Spiritual Court, that the prescription instead of being admitted is disputed, and that the parties are in progress to bring its existence to trial, the courts of common law are not bound to wait till the parties have incurred the expense of putting it in issue; and the prohibition is grantable at once (*k*).

556. The Court of Queen's Bench will presume that the Ecclesiastical Court will limit its decision to points which it may properly embrace, and will not prohibit the Ecclesiastical Court from proceeding to judgment, although the faculty *prayed* for is larger than the court has power to grant (*l*).

557. A court of common law has no power to prohibit the Ecclesiastical Court from granting a faculty to confirm alterations which have been already made; the suit, therefore, must proceed *quoad* them, in order that the Ecclesiastical Court, within whose proper jurisdiction that matter is, may determine whether the faculty be granted or not (*l*).

558. By a faculty granted A.D. 1738, by the Ecclesiastical Court of Ely, the Masters of Arts' Pit and the north and south galleries in the parish church of Great St. Mary, Cambridge, were appropriated to the University. In A.D. 1819, by agreement with the then churchwardens, the University, at their sole cost, enlarged the Masters of Arts' Pit and the galleries, and erected ten new pews, and for that purpose removed the organ into the tower,

(*i*) Anon., 2 *Salkeld*, p. 551.

(*k*) *Byerley v. Windus*, 5 *B. & C.* p. 22, and 7 *Dowl. & Ry.* p. 564.

(*l*) *Hallack v. Univ. of Cam.*, *Ad. & E. N. S.*, 1 *Q. B.* p. 614, and 1 *Gale & D.* p. 113; 9 *Degge*, p. 583.

and made other alterations. The University afterwards instituted, by letters of request, a suit in the Court of Arches against the churchwardens and parishioners, to confirm the erections and alterations, *and to appropriate the same to the University and their successors exclusively*. The official principal received the letters of request, and an act on petition, answer and reply were delivered (*m*).

559. To a declaration in prohibition, by the churchwardens, &c. disclosing these facts, the University demurred, and the Court of Queen's Bench gave the defendants in prohibition judgment, on the ground that, supposing the grant of a faculty for a pew to a corporation illegal, and that prohibition would lie for a faculty before it is granted (which seems doubtful), yet a faculty to confirm erections and alterations would be legal, and the Spiritual Court had done nothing illegal as yet, and it was to be presumed that it would limit the faculty to those objects, which legally might be embraced in it (*m*).

Queen's Bench presumes Ecclesiastical Court will not exceed its jurisdiction.

560. But where matters which are triable at common law arise incidentally in a cause, and the Ecclesiastical Court has jurisdiction in the principal point, prohibition to stay trial will not be granted (*n*). Still if any incidental matter intervenes by which the jurisdiction of the Ecclesiastical Court is ousted of its original jurisdiction, in that case a prohibition must go (*o*).

Will not necessarily interfere.

561. A faculty being prayed to confirm certain alterations in a church, and for permanently appropriating seats gained thereby, the Court of Queen's Bench held that it had no power to prohibit the grant of faculty for the former object, and that it was by no means a clear point

Perhaps granted *ex gratia* in a question of permanent appropriation.

(*m*) *Hallack v. Univ. of Cambr.*, *Ad. & E. N. S.*, 1 *Q. B.* p. 614, and 1 *Gale & D.* p. 113; 9 *Degge*, p. 583.

(*n*) *Full v. Hutchins*, 2 *Comp.* p. 424.

(*o*) *Darby v. Cossens*, 1 *T. R.* p. 555.

**CAP. II.
PREScrip-
TION.**

Resolution of
Star Chamber.

Prohibition to
suit on claim
by a non-
parishioner.

Whether pew
is appurtenant
to a house
must be tried
by jury.

Prohibition at
any time before
sentence.

whether prohibition would lie in respect to the latter part of the application; if so, it would be only *ex gratid* (*r*).

562. It was resolved in the Star Chamber, that if a man have a house in any parish, and time out of mind, he and all those whose estate he has, have used to have a certain pew in the church; if the ordinary will displace him, he shall have a prohibition; but he must claim the seat as belonging to his house (*s*).

563. As a non-parishioner can have no right to a seat in the body of the church, except by prescription, prohibition will be granted against the Spiritual Court in a suit by an extra-parochial person for a pew in the body of the church, either if claimed by any other title than prescription, or if claimed by that title and denied by the other side (*t*). This is on the ground that an issue has been raised in the Ecclesiastical Court upon a question of fact, which can only be tried by a jury in the temporal court (*u*).

564. When a right is annexed to a house in the parish, any obstruction to that right is a detriment to the occupation of the house; and it is only on account of a pew being annexed to a house that the temporal courts can take cognizance of any intrusion into it (*x*). Whether a pew is appurtenant to an ancient house is a question for the consideration of a jury (*y*).

565. It is not necessary for the party to apply in the first instance for a prohibition; if he make an application

(*r*) Hallack *v.* Univ. of Camb., *Ad. & E. N. S.*, 1 *Q. B.* p. 614; and 1 *Gale & D.* p. 113.

(*s*) Corven's case, 12 *Co. Rep.* p. 106, n.; Garven *v.* Pym, *Godb.* p. 200; 3 *Inst.* p. 202; citing Hussey *v.* Layton.

(*t*) Byerley *v.* Windus, 5 *B. & C.* 1; and 7 *Dowl. & Ry.* p. 564.

(*u*) Hallack *v.* Univ. of Cambr., 1 *Gale & D.* p. 113.

(*x*) Mainwaring *v.* Giles, 5 *B. & A.* p. 362.

(*y*) Griffith *v.* Matthews, 5 *T. R.* p. 297.

any time before sentence, he is in time ; no other line can be drawn (*b*).

CAP. II.
PRESCRIP-
TION.

566. Where the Spiritual Court has no original jurisdiction, a prohibition may be granted *after* sentence (*c*).

Or after, if no
original juris-
diction.

567. And a prohibition was granted after an appeal to the Arches, and then to the Delegates, and sentence affirmed there ; it appearing that a custom as to the ordering and disposing of the seats had come into question (*d*).

Even after
appeal to Dele-
gates.

568. After sentence prohibition shall not go, unless But only if want of jurisdiction below appears upon the face of the proceedings (*e*). such defect be apparent on proceedings.

569. A prohibition does not lie after sentence, unless it appears by the sentence that the Ecclesiastical Court has pronounced on matters conusable at common law, although there are several articles contained in the libel, some of which are not conusable (*f*).

570. The distinction in cases where prohibition does or does not lie after sentence is this :—If it appears on the face of the libel that the Ecclesiastical Court has no jurisdiction of the cause, a prohibition shall go ; because there *interest reipublicæ* that they should not encroach on the jurisdiction of the temporal courts, and in such case their sentence is a nullity (*g*).

571. After sentence it is incumbent on the party making

A doubt is a
sufficient ob-
jection.

(*b*) *Darby v. Cossens*, 1 *T. R.* p. 555.

(*c*) *Leman v. Goult*, 3 *T. R.* p. 4.

(*d*) *Brabin v. Trediman*, 2 *Rolle's R.* p. 24.

(*e*) *Buggin v. Bennett*, 4 *Bur. Rep.* p. 2035; *Symes v. Symes*, 2 *Bur.* p. 813 (A.D. 1759); *Sims v. Sims* (1759), 2 *Ld. Kenyon's Cases in K. B.* p. 540; *Blacquiere v. Hawkins*, 1 *Dougl.* p. 378; *Ladbroke v. Crickett*, 2 *T. R.* 649; *Gosling v. Veley*, 12 *Q. B.* p. 390; *Full v. Hutchins*, 2 *Conv.* p. 424.

(*f*) *Hart v. Marsh*, 1 *Nev. & P.* p. 62; *Ibid.* 5 *Ad. & E.* p. 591; *Ibid.* 5 *Dowl. P. C.* p. 424; *Ibid.* 2 *Har. & W.* p. 341.

(*g*) *Full v. Hutchins*, 2 *Conv.* p. 424.

CAP. II.
PREScrip-
TION.

On granting
prohibition
ecclesiastical
costs cannot be
given.

No prohibition
after consulta-
tion.

Attachment
for dis-
obedience of
prohibition.

Even if prohi-
bition be
granted impro-
vidently.

And even
against a peer.

An attachment
was dissolved
upon payment
of fine.

the application, to show clearly that the Spiritual Court had no jurisdiction. If, therefore, it be doubtful, it is an answer to the application (*h*).

572. The Act of 1 Will. IV. c. 21, s. 1, does not enable the court, where a party has declared in prohibition and succeeded, to grant him his costs incurred in the Ecclesiastical Court (*i*).

573. After a consultation, prohibition may not be granted; except in the case of the judge dying, when his successor may be prohibited (*k*).

574. The disobeying of a prohibition is a contempt of the Superior Court that awards it, and is punishable by attachment, which issues against the judge and party, or either, for proceeding after such prohibition, and for which they are subject to fine and imprisonment, according to the discretion of the Superior Court (*l*).

575. And even if a prohibition issue improvidently, but is not superseded, a proceeding in breach of it is a contempt (*m*).

576. An attachment for a contempt may be awarded not only against a commoner, but even against a peer of the realm (*n*).

577. An attachment was granted upon affidavit, that the party had proceeded after a prohibition delivered to him, in a suit for a seat in a church, which the plaintiff claimed by prescription; and on his appearance and examination upon interrogatories, he confessed the matter and was fined five marks (*o*).

(*h*) *Carslake v. Mapledoram*, 2 *T. R.* p. 475.

(*i*) *Tessimond v. Yardley*, 5 *B. & Adol.* p. 458.

(*k*) *Bowry v. Wallington*, *Latch.* p. 7.

(*l*) *F. N. B. H. & K.* p. 40.

(*m*) *Iveson v. Harris*, 7 *Ves.* p. 251.

(*n*) 21 *Edw. III.*, pt. 7, p. 2; *Bac. Abr.* “Prohibition.”

(*o*) *Dr. Wainwright's case*, cited *Bacon's Abr.* “Prohibition” (M).

578. And not only an attachment lies for proceeding in the same cause pending a prohibition, but also for instituting a new suit for the same thing. Thus, if a parson libels for tithes, and a prohibition is brought, and he libels for tithes of another year, the first suit not being determined, an attachment shall be awarded (*p*).

579. As prohibition is intended for keeping every court within its proper jurisdiction, the law as to prohibition can only be altered by act of parliament (*q*).

CAP. II.
PREScrip-
TION.

Attachment
also for insti-
tuting new
suit for same
thing.

The law can
only be altered
by act of par-
liament.

(*p*) Bacon's *Abbr.* "Prohibition" (M).

(*q*) Comyn's *Dig.* "Probibition" (C); 2 *Inst.* p. 601.

PART C.

PRIVATE CHAPELS AND UNCONSECRATED
BUILDINGS.

DIVISION a.

a. PRIVATE CHAPELS.

Ordinary has no power over seats in private chapels. 580. It is said that the ordinary has no power over seats in chapels annexed to the houses of noblemen and other laymen (*a*).

“Private Chapels Act, 1871.” 581. In “The Private Chapels Act, 1871” (*b*), there was, when the bill was introduced into the House of Commons, a paragraph which prohibited the letting of any seat for hire, or the charge of any fee for admission to the services in any chapel to which a clergyman was licensed by the bishop under the provisions of the act, and without the consent of the incumbent of the parish; but the paragraph dropped out before the bill became an act.

Private chapels bear a resemblance to proprietary chapels.

582. There is, it will be seen, a very remarkable dearth of legal information as to the seats in private chapels; perhaps they may be considered more in the nature of seats in proprietary chapels than in any other ecclesiastical building.

(*a*) 2 Roll's *Abbr.* p. 288, citing Wyche's case; Viner's *Abbr.* “Prohibition” (*G*).

(*b*) “The Private Chapels Act, 1871” (34 & 35 Vict. c. 66).

PART C.

PRIVATE CHAPELS AND UNCONSECRATED
BUILDINGS.

DIVISION b.

*PROPRIETARY CHAPELS.***b. PROPRIETARY CHAPELS.**

583. PROPRIETARY chapels are anomalous, being unknown to the constitution of the Church of England, and to the ecclesiastical establishment; and can possess no parochial rights, and the exercise of any such rights would be a mere usurpation (*a*).

Proprietary chapels are anomalous, and have no parochial rights.

584. They are mere speculations of the proprietors, probably for a very good purpose, and from very honorable motives, and not merely for the sake of the emoluments arising from letting the pews (*b*); for which, in return, the performance of public service is afforded (*c*).

They are mere speculations.

585. If the proprietors, from any cause, cannot let these pews, there is nothing to prevent them, even if the chapel be consecrated, from shutting it up; and, if not consecrated, from converting it to any secular purpose (*d*).

If unproductive may be shut up.

586. But it was the opinion of the late Dr. Swabey (answering a case for opinion in 1820) that, strictly, the consent of the ordinary might be necessary to the owners erecting more pews therein; but when erected, the owner (and not the parish) may place persons therein, though still subject to the control of the ordinary, if lawful cause for interference and control should arise. (It is not easy to imagine how such cause could arise) (*e*).

But doubt whether ordinary's authority necessary for putting up seats.

(*a*) *Moysey v. Hillcoat*, 2 *Hagg.* p. 46.

(*b*) *Ibid.* p. 50.

(*c*) *Ibid.* p. 57.

(*d*) *Ibid.* p. 50.

(*e*) MS. Opinion.

PART D.

CHURCHES BUILT UNDER ACTS OF PARLIAMENT.

DIVISION a.

a. GENERAL ACTS.

Introduction.

GENERAL CHURCH BUILDING ACTS.

587. THE Church of England, after a very lengthened period of somnolent existence, scarcely to be called life, suddenly awoke to discover an appalling amount of spiritual destitution. The first step taken towards a remedy for this state of things was the passing in 1818 of an act for building and promoting the building of additional churches in populous parishes (*a*), followed up by the appointment of church-building commissioners (*b*), to carry the act into operation. The original act has been patched and tinkered a dozen times subsequently by as many other church building acts, and various other quite independent acts have also been passed; the result is a very confused and unsatisfactory mass of material, needing much more than codification. The commission, at first limited to ten years, was continued by subsequent acts up to the end of the year 1857, when its powers, &c. were transferred to the ecclesiastical commissioners (*c*).

588. For the purposes of the Act of 1818, parliament

(*a*) 58 Geo. III. c. 45.

(*b*) By 58 Geo. III. c. 54.

(*c*) 19 & 20 Vict. c. 55.

voted the sum of a million sterling (*d*), and half a million more was added by the Act of 1824 (*e*).

a. GENERAL
ACTS.

589. In a subject so novel to public attention, it would be no matter of surprise to find that principles concreted in ages long past, and subsequently in ignorance of their true character, despised as dark and barbaric, were altogether unnoticed, or if noticed, disregarded. It might, perhaps, be expected that provision would be made that nothing in the acts, or to be done under their authority by the commissioners, should invalidate or avoid any ecclesiastical law or constitution of the Church of England, or destroy any of the rights or powers belonging to any bishop, archdeacon, chancellor, or official, or hinder the exercise of their ecclesiastical jurisdiction as fully, and in like manner, as theretofore (*f*).

General
churchbuilding
a novel subject.

Rights of
bishops were
preserved.

590. But it is a matter of some astonishment to find that in 1818 (the date of the first of the Church Building Acts) the ancient rights of parishioners to the use of their parish church, without payment of rent, were fully recognized; and although to relieve the pressing wants of the moment, a system of appropriation and pew renting was sanctioned, the act contemplated it merely as a temporary measure, and made provision for its diminution and extinction (*g*). A little more consideration of human nature would no doubt have shown that, as a rule, persons who had acquired special privileges were not likely to abandon them voluntarily, or themselves take the necessary steps to restore, at their own loss, the rights of the parishioners at large; and the result has been that in a large number of

Ancient prin-
ciple of
freedom from
rent main-
tained.

(*d*) 58 Geo. III. c. 45, s. 1.

(*e*) 5 Geo. IV. c. 103, s. 1.

(*f*) 58 Geo. III. c. 45, s. 84; 3 Geo. IV. c. 72, s. 36.

(*g*) 59 Geo. III. c. 134, s. 26.

a. GENERAL
ACTS.

cases rents, sometimes little more than nominal, have been continued when they ought, in accordance with the spirit and intention of the act, long since to have ceased. Rights or liberties waived or infringed are not easily regained.

Letting seats intended as temporary measure.

591. Although the plan of letting seats at a rent, as a means of supplying the deficiency of funds, was adopted by the earlier Acts as a temporary measure, the right to seats without payment was still further recognized by the Act of 1831 (*f*), which contemplates the building of new churches in which there might be no pew rents, though it still sanctioned them in anticipation of their being frequently necessary.

Limited to a part.

592. The permission to let seats is limited to a certain proportion of the whole accommodation of a church built under the provisions of the Church Building Acts, a proportion which varies under different acts, and various claims have first to be considered.

Plan of this part.

593. We commence with a list of the Church Building Acts and those Public General Acts which affect pews: next show what rights are reserved; and then what are the requirements as to free seats. Next as to the letting, and the appropriation of the rents, and under what circumstances they cease. And conclude with the rights of the seat-holders and their cessation.

594. Division **b** refers only to churches and chapels built under local and private Acts, each independent of the others and of the general law. Consequently every case is governed by its own Act, and few points decided affect them at large.

(*f*) 1 & 2 Will. IV. c. 38, s. 2.

595. *List of General Church Building Acts.*a. GENERAL
ACTS.List of Church
Building Acts.

1818 . . . 58 George III.	c. 45.
1819 . . . 59 George III.	c. 134.
1822 . . . 3 George IV.	c. 72.
1824 . . . 5 George IV.	c. 103.
1827 . . . 7 & 8 George IV.	c. 72.
1831 . . . 1 & 2 William IV.	c. 38.
1832 . . . 2 & 3 William IV.	c. 61.
1838 . . . 1 & 2 Victoria	c. 107.
1839 . . . 2 & 3 Victoria	c. 49.
1840 . . . 3 & 4 Victoria	c. 60.
1843 . . . 6 & 7 Victoria	c. 37.
1844 . . . 7 & 8 Victoria	c. 56.
1844 . . . 7 & 8 Victoria	c. 94.
1845 . . . 8 & 9 Victoria	c. 70.
1846 . . . 9 & 10 Victoria	c. 68.
1846 . . . 9 & 10 Victoria	c. 88.
1848 . . . 11 & 12 Victoria	c. 37.
1851 . . . 14 & 15 Victoria	c. 97.
1855 . . . 18 & 19 Victoria	c. 127.
1856 . . . 19 & 20 Victoria	c. 104.
1860 . . . 23 & 24 Victoria	c. 142.
1869 . . . 32 & 33 Victoria	c. 94.

596. Nothing in the acts or done under their authority by the commissioners is to invalidate or avoid any ecclesiastical law or constitution of the Church of England, or to destroy any of the rights or powers belonging to any bishop, archdeacon, chancellor or official; but they may at all times exercise ecclesiastical jurisdiction as fully and in like manner as theretofore (g).

General rights
of bishops re-
served by the
acts.

597. Before the consecration of any church or chapel under the original Church Building Act, a pew sufficient Seats for minister and family.

(g) 58 Geo. III. c. 45, s. 84; 3 Geo. IV. c. 72, s. 36.

a. GENERAL ACTS.

to hold at least six persons is to be set apart in the body or ground floor near the pulpit, for the use of the minister and his family. Also other seats, to contain at least four persons, are to be set apart in some other convenient situation, and not among the free seats, for the use of the minister's servants; and no rent is to be paid for any of these sittings (*h*). There is here an evident reminiscence of the ancient right of the parson to the chief seat.

Pews for church-wardens.

598. Proper pews are to be assigned and provided in every church and chapel, for the use of the church or chapelwardens (*i*).

Rights transferred from former to substituted church.

599. When a chapel is converted into a parish church, and the former church becomes a chapel (the endowments being transferred), the rights of persons holding pews rent free by faculty or prescription in the former parish church are not lost but transferred (*j*).

Commission to consider rights transferred to substituted church.

600. Upon the substitution of a new church for an old one in the same parish and the transfer thereupon of parochial rights, the bishop at any time within six months of such substitution may, on his own mere motion, and, if required by any person claiming to hold a pew or seat free of rent, by faculty or prescription, in the old or existing church, is required to issue a commission, under his hand and seal, to two incumbents of parishes within the arch-deaconry containing the old church and two laymen nominated for this purpose by the churchwardens of the old church and not claiming to hold any such pews or seats (*k*).

What bishop has jurisdiction in chapelry.

601. As regards a chapelry (now a parish) formed out of parts of contiguous parishes, even though previously wholly or in part within any exempt or peculiar jurisdic-

(*h*) 58 Geo. III. c. 45, s. 75.

(*i*) 59 Geo. III. c. 134, s. 30.

(*j*) 1 & 2 Vict. c. 107, s. 18.

(*k*) 8 & 9 Vict. c. 70, s. 1.

tion, the chapel becomes subject to the jurisdiction of the bishop and archdeacon in whose diocese and archdeaconry the altar of the chapel of the chapelry is locally situate (*l*).

a. GENERAL
ACTS.

602. A commission was issued by the chancellor of a diocese, subsequent to certain alterations and additions to a parish church, to inspect the sittings and settle all claims of the inhabitants in a just and equitable manner, having regard to any existing right to sittings there, whether possessory or by faculty or prescription, and with the distinct understanding that no person who had ceased to be an inhabitant and occupier of premises in the parish should retain possession; and to certify the court by a given day in order that the court might judge of and (as justice should direct) ratify and confirm the same and decree the disposition and allotment of the seats accordingly. Such a commission is not illegal, though, perhaps, the terms in which the power was conferred were somewhat large. As the chancellor retained the final adjudication upon the award, in his own hands, the commission was properly issued (*m*).

Form of commission granted in respect to re-fitted church.

603. In this case, however, no question was raised as to the authority of the bishop to cite persons claiming seats to prove their title either before himself or a commission. The Act of 1844 (*n*), authorizing the issue of an analogous commission, refers only to the case of the substitution of a new church for an old church, and not at all to possessory rights. The absolute appearance of claimants would act as a submission to the jurisdiction.

But act refers only to substituted church.

604. The commissioners appointed under the Act of 1844, or any three or more of them, of whom the arch-deacon must be one, are at their earliest convenience to examine into such claims, having previously given fourteen

to examine into claims.

(*l*) 59 Geo. III. c. 134, s. 7; 2 & 3 Will. IV. c. 61.

(*m*) *Craig v. Watson*, Arches Ct. (Sir R. J. Phillimore), 30 Nov. 1870, unrep.

(*n*) 8 & 9 Vict. c. 70, s. 1.

a. GENERAL ACTS.

days' notice, by affixing a copy of their commission on the door of the new church, together with a notice signed by the archdeacon, specifying the day, time and place on which such examination is to be made (*o*).

And bishop may assign equivalent seats in new substituted church.

605. After making an examination into these claims, the commissioners, or the majority of them, are, under their hands, to transmit in writing to the bishop, the names and residences of those persons who have substantiated claims to such pews or seats; and the bishop, if satisfied, is to assign, under his hand and seal, to such persons respectively, convenient pews or seats in the new church, to be held and enjoyed in the same manner as those to which they had been entitled in the old church (*o*).

Persons aggrieved by commissioners may appeal to bishop.

606. Any person aggrieved by the finding of such commissioners may appeal to the bishop of the diocese, who may, if he think fit, allot him seats in the new church (*o*). This the bishop might have done, under the ordinary theory of a bishop's authority, without special parliamentary powers.

Under circumstances fresh evidence permitted on appeal to Arches.

607. Upon appeal from the chancellor of a diocese who had confirmed the settlement, made under a commission by him appointed for the purpose, of all claims of the parishioners to sittings in a parish chnrch, the Arches Court, upon the representation that one of the objectors had in the court below acted without legal advice, and that his rights had been imperfectly set forth, allowed fresh evidence to be taken (*p*).

Rights to be specified in scheme for division.

608. Upon the division of a parish under the New Parishes Act of 1856, the rights of pewholders are to be specified in the scheme ratified by order in council (*q*).

(*o*) 8 & 9 Vict. c. 70, s. 1.

(*p*) *Craig v. Watson*, unrep.

(*q*) 19 & 20 Vict. c. 104, s. 25.

609. The original Church Building Act (1818) provides that one-fifth part of the whole of the sittings in any church or chapel, built wholly or in part out of or on money raised on the credit of rates, shall be free from rent or assessment. They are to be marked with the words "Free Seats" (r).

a. GENERAL ACTS.

Proportion of free seats.
Originally one-fifth in church built out of rates.

610. The Act of 1819 directs that one-half of the additional accommodation gained by rebuilding a church under that act shall be free and open (s).

Half seats gained by rebuilding to be free.

611. In order to secure the patronage conferred by the Act of 1831 upon persons building or endowing, it is required that one-third of the whole should be free (t); by a subsequent section (u) the commissioners may direct any church or chapel built by private individuals, under the provisions of the Church Building Acts, shall be subject to the provisions of this act.

One-third of whole must be free to secure patronage.

612. By the Act of 1838 it is left to the bishop to determine whether the one-third part of the sittings required in the former act to be free, should thereafter be free, or whether the same, or any part thereof, should be let at such low rents as the bishop should from time to time direct (x).

Bishop may direct them to be let at low rents.

613. Where a new or substituted church has been built wholly or in part out of funds granted by the commissioners, and a transfer has been made, the rents shall only be fixed by the commissioners for the number of seats exceeding the number in the old or existing church (y).

But rents only on seats in excess of former number.

614. Where in a new parish or district it appears to the commissioners that sufficient funds cannot be obtained

Originally one-third of church of united parishes.

(r) 58 Geo. III. c. 45, s. 75.

(s) 59 Geo. III. c. 134, s. 40.

(t) 1 & 2 Will. IV. c. 38, s. 2.

(u) Ibid. s. 22.

(x) 1 & 2 Vict. c. 107, s. 1.

(y) 8 & 9 Vict. c. 70, s. 1.

a. GENERAL ACTS.

One-half of church of new parish.

Now one-half.

One-fourth at extra service.

None let under Acts of 1843 and 1844, till altered in 1856.

Then one-half of whole, and equal in all respects to others.

from other sources and they order that rents be fixed, at least one-half of the whole number of sittings in the church shall be free; and it must be shown to their satisfaction that such free sittings are, with respect to position and convenience, as advantageously situated as the others (*a*).

615. In the case of the church of contiguous parishes, united under an act passed in 1855 (but limited to a period of five years), not less than one-third of the seats are to be free and unappropriated (*b*).

616. On the expiration of this act in 1860, another and permanent act was passed, which provides that at least half of the seats in the church of the united parishes shall be unappropriated (*c*).

617. In the case of a third or additional service being appointed by the bishop under power conferred by the Act of 1818, at least one-fourth of the seats must be kept free (*d*).

618. The New Parishes Act (1843) (*e*), and its Amendment Act (1844) (*f*), which require a certain endowment, contain no provision for letting seats; but the power of fixing rents (where it shall appear that sufficient funds cannot be provided from other sources, but not otherwise), is imported into them by the Act of 1856 (*g*) in respect to churches to which a district is assigned after the date of the last-mentioned act, on the 29th July, 1856.

619. Where rents are ordered by the commissioners to be adopted in a church built under the Acts of 1843 and 1844, one-half at least of the whole number of sittings in the church shall remain free; and it must be shown to the

(*a*) 19 & 20 Vict. c. 104, s. 6.

(*b*) 18 & 19 Vict. c. 127, s. 13.

(*c*) 23 & 24 Vict. c. 142, s. 28.

(*d*) 58 Geo. III. c. 45, s. 65.

(*e*) 6 & 7 Vict. c. 37 (commonly called "Peel's Act").

(*f*) 7 & 8 Vict. c. 94.

(*g*) 19 & 20 Vict. c. 104, s. 6 (commonly called "Blandford's Act").

satisfaction of the commissioners that such free seats are well placed and convenient as those for which it is proposed to fix rents (*h*).

a. GENERAL
ACTS.

620. The other seats (not exceeding the proportions mentioned) are to be let by the churchwardens, and it is their duty to collect the rents for such seats (*i*). Wardens to collect rents.

621. Where under the authority of the provisions of the act the bishop has required that a third service in the day be performed by a clergyman specially appointed for the purpose, he may require the churchwardens to let for such third service, such proportions of the pews (not being pews held by faculty or prescription) and at such rates as, in the bishop's opinion, may be sufficient to afford a competent salary to such clergyman; but reserving such number of free sittings, being at least one-fourth, as may seem expedient to the bishop (*k*). Where bishop orders a third service, seats to be let independently of general allotment.

622. In churches built under the original Church Building Act, the commissioners are to fix the rents of the pews (*l*). Rents fixed by commissioners.

623. Under the Act of 1819 all pew rents are payable in advance. One year's rent is to be paid on admission to the pew or seat, if given at Lady Day or Michaelmas; but if at an intermediate period, then a proper proportion, in addition to a half-year's rent, and afterwards a half-year's payment in advance. But such pew or seat is to be forfeited by the discontinuance of such payment in advance for two successive half-years (*m*). All rents payable in advance.

624. They are to be offered in the first instance to parishioners. All subscribers, who are parishioners, to Sittings offered to parishioners according to

(*h*) 19 & 20 Vict. c. 104, s. 6.

(*i*) 58 Geo. III. c. 45, s. 73.

(*k*) Ibid. s. 65.

(*l*) Ibid. s. 63.

(*m*) 59 Geo. III. c. 134, s. 32.

**a. GENERAL
ACTS.**
amount or
order of sub-
scription.

Subscribers to
building a
church may be
discharged
from rents for
time of life,
with power of
assignment.

Notice of
vacancies to be
given.

Those unlet
after fourteen
days, let to non-
parishioners.

any church or chapel built under 58 Geo. III. c. 45, have choice of pews, at the rates fixed by the commissioners, in the *order* of their *amount* of subscriptions; and in case of subscribers to the same amount, then in the *order* of their subscriptions (*n*).

625. The church-building commissioners may discharge any subscribers towards building any church or chapel, or towards purchasing their sites, wholly or in part from the payment of pew rents for a limited time, or for life, in such proportion to the amount of their respective subscriptions as the commissioners shall see fit, and allow such subscriber, if he remove from the parish, to assign the remainder of such term to any other parishioner inhabiting the parish (*o*). Doubts which had been entertained as to whether the power applied to subscribers to sites as well as subscribers to building, were set at rest by the Act of 1831 (*p*).

626. Where the pew rents have been fixed, notice is to be given for six successive weeks, at the end of each year, of all the pews which will be vacant at the commencement of the year following, and the same is to be affixed in writing upon the doors of the church or chapel and vestry room respectively (*q*).

627. All pews which are not taken at the rent fixed upon may, within fourteen days after the commencement of the ensuing year, be let to any inhabitants of adjoining parishes, where the church accommodation is insufficient, at the same rent, and for any term not exceeding a year. But at the end of every successive year each pew so rented is to be inserted in the list of vacant pews, and the inhabit-

(*n*) 58 Geo. III. c. 45, s. 76.

(*o*) 59 Geo. III. c. 184, s. 33.

(*p*) 1 & 2 Will. IV. c. 38, s. 21.

(*q*) 3 Geo. IV. c. 72, s. 24.

ants of the parish, to which the church belongs, are again to have the preference (*r*).

628. But the churchwardens *may*, with consent in writing of the incumbent, the patron and the bishop, alter such yearly rents; and in such case a new schedule of rents, and of the pews or seats upon which they are charged, must be signed by the churchwardens, incumbent, patron, and bishop, and be deposited with the deed of consecration (*s*). They may, however, be *required* to make such alterations by the bishop, with consent of the incumbent and patron, and in case the pew rents shall have been assigned to the parish, then with consent of the vestry (*t*).

629. In the case of churches or chapels built under the Act of 1831, the seats are to be let by the church or chapelwardens, or by some person appointed by the trustees, or the persons building or endowing the church or chapel, at a scale approved by the bishop, which may be altered from time to time as occasion may require (*u*).

630. Where the church of a consolidated chapelry has been built, wholly or in part, by means of funds supplied by the church-building commissioners, they, with consent of the bishop, may apply to such church the provisions of the Acts of 1818 and 1819, touching the reservation of pew rents (*x*).

631. In all cases not previously provided for, churchwardens, who are to be appointed in every district or consolidated chapelry, are to receive pew rents and recover arrears of such rents (*y*).

a. GENERAL ACTS.

Wardens may alter rents with consent or at requirement of bishop.

Wardens or trustees may let under Act of 1831.

Provisions of 1845 applicable to consolidated chapelry under 1818 and 1819.

(*r*) 3 Geo. IV. c. 72, s. 24; 1 & 2 Will. IV. c. 38, s. 4.

(*s*) 58 Geo. III. c. 45, s. 78.

(*t*) 58 Geo. III. c. 45, s. 78; 59 Geo. III. c. 134, s. 31.

(*u*) 1 & 2 Will. IV. c. 38, s. 4.

(*x*) 8 & 9 Vict. c. 70, s. 11.

(*y*) Ibid. s. 6.

**a. GENERAL
ACTS.**

Or bringing an action.

Means to enforce payment of rent in arrear by letting or selling.

To be let or sold to parishioners only, and in default to others by private contract.

Except for arrears, and then with option of auction.

632. The churchwardens may, at their discretion, sue for and recover the rent in arrear by an action of *debt* or an *action on the case*, for the use and occupation of such pew or seat, to be brought against the owner or occupier in the name of “the churchwardens of the church or chapel of [describing the church or chapel];” and no such action abates by reason of the death, removal, or going out of office of any churchwardens (*a*).

633. Where the rent of any pew or seat is unpaid for the space of three months next after it is due, and notice in writing, demanding payment, has been given to the owner or occupier, then the churchwardens may either enter upon and hold such pew or seat, or let it to any other person, as they think proper, until the rent in arrear and all costs and charges have been satisfied. They have also the option of selling such pews or seats by public auction to the best bidder, and paying the rent in arrear out of the price; and after deducting all reasonable expenses, they are to pay any overplus to the respective owners or occupiers of such pews or seats (*a*).

634. The churchwardens are neither to let nor sell any pews and seats, except to parishioners, during the time they shall continue to inhabit the parish; and any sale of any pew or seat (in default of its being applied for by a parishioner, or otherwise in default of payment of rent) is subject to the reserved rent fixed under the provisions of 1818 and 1819, and is to be sold by private contract, and not by public auction (*b*). But with an exception in the case of rent being in arrear (under the Act of 1818), when the churchwardens have also the option of selling such pews or seats as mentioned in paragraph 633.

(*a*) 58 Geo. III. c. 45, s. 79.

(*b*) 59 Geo. III. c. 184, s. 32.

635. If persons are willing, in preference to pew rents, to subscribe for the salary of a curate for a third service, every subscriber, being a parishioner, shall have the option of any pew (not held by faculty or prescription) for such service, according to the amount, and in the order of subscription, if any have subscribed an equal amount; and to continue to hold such pew so long as he continues to subscribe (*c*).

a. GENERAL ACTS.

Preference to subscribers to third service, according to amount and order.

636. The churchwardens may, with consent of the commissioners, borrow money towards building a church or chapel, or purchasing a site for it, and defraying expenses, upon the credit of the pew rents, subject to the payment of the clergyman and clerk's stipends and other expenses (*d*).

Money for building may be borrowed on credit of pews.

637. The commissioners, with consent of the bishop, are to assign out of the pew rents a proper stipend to the clergyman of such church or chapel, regard being had to the extent and population of the district attached to it, the cost of procuring a residence, and all other circumstances. They are also to assign a salary to the clerk of such church or chapel. If the commissioners and bishop cannot agree as to the amount of any such stipend, it is to be settled by the archbishop of the province (*e*).

Rents to be applied to stipend of clergyman and salary of clerk.

638. The commissioners may from time to time direct that the rents of the pews in any church or chapel within the provisions of the Church Building Acts, be assigned to the parish or district and received by the churchwardens, who thereupon are required to pay the clergyman and clerk their stipends (*f*).

Rents may be assigned to wardens for the purpose.

(*c*) 58 Geo. III. c. 45, s. 66.

(*d*) 59 Geo. III. c. 134, s. 27.

(*e*) 58 Geo. III. c. 45, ss. 63 & 64; 8 & 9 Vict. c. 70, s. 11.

(*f*) 59 Geo. III. c. 134, s. 26; and by 19 & 20 Vict. c. 104, s. 6, where the funds from other sources are insufficient.

**a. GENERAL
ACTS.**

Wardens only liable for net amount realized.

Rents for like purpose in church built by individuals.

On substitution, rents to pay stipends for both churches.

Wardens liable only for amount of rents received by themselves.

Surplus rents (after payment of stipends) to go to repay loan, for repairs and in aid of church rate.

639. But the parish is in no case to be answerable to the minister or clerk for any greater sum than the pew rents of that year realize (*h*).

640. Where a church is built by private individuals, under the Act of 1824, the usual proportion of free seats is to be set apart; and a competent salary for the spiritual person who may officiate therein, as well as other expenses incident to the performance of divine service, and for maintaining such church, are to be provided out of the pew rents after consecration (*i*).

641. The commissioners may provide for the maintenance of the minister and clerk of both a substituted church and the church for which it was substituted, out of pew rents of either of such churches (*k*).

642. When, under the Acts of 1818 and 1819, the commissioners have made an order assigning rents to be received for the purpose of those acts, the minister is entitled to receive from the churchwardens (as soon as received by them), towards his stipend, what they have received (subject to some prior charges) for pew rents; but only in respect of quarters expired, and for which the stipend has become due. He is not entitled to receive from the present churchwardens the balance of rents received by the late churchwardens and not paid over to them (*l*).

643. The surplus of pew rents, after payment of stipend to the clergyman and clerk and other expenses, may, with consent of the commissioners, be applied towards the repayment of money advanced towards building the church or

(*h*) 59 Geo. III. c. 134, s. 26; and by 19 & 20 Vict. c. 104, s. 6, where the funds from other sources are insufficient.

(*i*) 5 Geo. IV. c. 103, s. 10.

(*k*) 1 & 2 Vict. c. 107, s. 18.

(*l*) *Lloyd v. Burrup & anor.*, 19 *Law Times Rep.*, Ex. p. 696.

chapel, purchasing its site, keeping it in repair, or other expenses. The residue of such pew rents are to be applied as above mentioned, or in aid of the church rate, if the commissioners think fit (*m*).

644. Any surplus of pew rents, after payment of such stipend and other expenses, is, except in certain cases (mentioned in the next section), to be invested in government securities, in the names of trustees to be appointed by the bishop of the diocese, to accumulate and form a fund for building or purchasing a house of residence for the clergyman; and after such purpose has been completed, then it is to be devoted either to the augmentation of the clergyman's stipend, the reduction of pew rents, or the increase of accommodation in the church, as the bishop may direct (*n*).

645. The next section provides that the surplus rents after payment of the stipend and expenses may, if the commissioners think it expedient, be charged with the repayment of any loan for the cost of the church or site, and for defraying all expenses relative thereto, and for keeping the church in repair; and the then remaining residue be applied as before provided, or in aid of the church rate (*o*).

646. The principle of a gradual cessation of rents had become lost sight of when the Act of 1831 passed. It empowers the payment over of the residue after an annual reservation for repairs, and payment of clerk's salary, beadles, pew-openers, and incidental expenses, to the minister for his own use by way of stipend in addition to the dividends of funded endowment (*p*).

a. GENERAL
ACTS.

Unemployed surplus to be invested for fund for parsonage; then to augment stipend, reduce rents or increase accommodation.

Or towards repayment of loan or for expenses, repairs or church rate.

Not to reduction of rents, but to augmentation stipend, by Act of 1831.

(*m*) 59 Geo. III. c. 134, ss. 26, 27.

(*n*) Ibid. s. 26.

(*o*) Ibid. s. 27.

(*p*) 1 & 2 Will. IV. c. 38, s. 16.

a. GENERAL
ACTS.

Minister's
stipend may be
augmented,
unless invested
for parsonage
or subject to a
loan.

In new
parishes to be
applied to
repairs and
expenses,
minister and
endowment.

Repairs of
pews part of
repair of
church.

And charge-
able to their
own districts.

647. The commissioners, with the consent, under seal, of the bishop, are empowered to augment, out of the surplus pew rents, the minister's stipend (in respect to which reservation out of pew rents has been made under the Act of 1818), by a further assignment of part or the whole of the surplus pew rents, accrued or to accrue; such assignment to be registered in the diocesan registry. But this power is not to be exercised where the surplus rents have been invested on government securities in trustees' names, to accumulate for cost of a house of residence; or where charged by the commissioners with repayment of loan and interest for the building of the church or chapel, or cost of site, expenses or repairs (*q*).

648. When in default of sufficient funds from other sources the commissioners make an order for pew rents in a church built under the Acts of 1843 and 1844, the proceeds not otherwise appropriated by law, are to be applied towards the repair and maintenance of the church, and the maintenance of the minister and the services, and the endowment of the church, in such manner as shall be specified in their order, and to no other uses (*r*).

649. The expense of repair of pews is necessarily included in the expense of repair of the church; and for this the pew rents are liable under the Act of 1819 (*s*), and various subsequent acts.

650. The repairs of all district churches or chapels, built under the Church Building Acts, when not otherwise provided for, are to be made by the districts to which they respectively belong, in like manner as in case of repairs of churches by parishes; and every such district is to be

(*q*) 3 & 4 Vict. c. 60, s. 5.

(*r*) 19 & 20 Vict. c. 104, s. 6.

(*s*) 59 Geo. III. c. 134, s. 27.

deemed in law a separate and distinct parish for that purpose (*t*).

651. Every such district is further to remain, for twenty years after consecration, subject to the repair and the incidental expenses (*u*) of the original parish church, and to be deemed during that time, and no longer, a part of the parish for the purpose of such repairs and rates for the purpose (*x*).

652. In any case where any division of a parish divided under the provisions of the Acts of 1818, 1819 and 1822, shall be again divided, and a church or chapel built or appropriated within, and to the use of, such new division, the Church Building Commissioners, by any instrument under their seal, may declare that all liability to any repairs of the church or chapel of the division, from which such new division shall have been so made, shall cease from the period specified in such instrument: and that the only remaining liability be for its own repairs, and its share of the repair of the church of the original parish for the residue of the twenty years during which the old division was liable to share in such repair (*y*).

653. All chapels acquired and appropriated, or built, or enlarged, or improved, under the provisions of the Acts of 1818, 1819 and 1822, or under any local acts in which no provision has been made for such purpose, in aid of the churches of the parishes or places in which they may be situated (whether any district of any such parishes may have been assigned or not to such chapels as belong thereto for ecclesiastical purposes), are to be repaired by the

a. GENERAL ACTS.

Districts also liable for twenty years to repair of original parish church.

In case of further subdivision, liability for repair by last of intermediate parish church may be limited.

Chapels in aid to be repaired by the parish.

(*t*) 58 Geo. III. c. 45, s. 70.

(*u*) Chesterton & H. v. Farlar, 1 *Curt.* 356.

(*x*) 58 Geo. III. c. 45, s. 71.

(*y*) 3 Geo. IV. c. 72, s. 21.

**a. GENERAL
ACTS.**

Money for purpose directed to be raised by church rate, but compulsory rates since abolished.

respective parishes, places at large, or districts to which such chapels may belong (*z*).

654. The act provided that rates were to be raised, levied and collected for that purpose, in like manner in every respect as for the repair of the churches of such parishes and places, and all the laws then in force for making, levying and collecting rates for the repair of churches were to be applied and put in force for the raising, making, levying and collecting such rates for the repairs of such chapels (*z*). But this provision was from and after the 31st July, 1868, practically abrogated by the Act for the Abolition of Compulsory Church Rates for Ecclesiastical Purposes (*a*).

Individuals building and endowing must provide fund for repairs.

655. When a church or chapel is about to be built and endowed by private individuals, under the provisions of the Acts of 1831 and 1838, they must, as a preliminary step, declare their intention of providing a fund for its repair, namely, one sum, equal in amount to 5 per cent. of the original cost of such church or chapel, to be secured on lands or money in the funds, and also 5 per cent. upon the sum so raised, to be reserved annually out of the pew rents (*b*).

Or a perpetual rent-charge.

656. A perpetual rent-charge, equal in value to the repair fund so directed to be secured, may be made upon lands or other hereditaments. And the incumbent of such church or chapel, immediately after it has been consecrated and a district assigned to it, may take to himself and his successors a transfer of such rent-charge, upon the same trusts and for the same purposes as the repair fund may be held by trustees (*c*).

(*z*) 3 Geo. IV. c. 72, s. 20.

(*a*) 31 & 32 Vict. c. 109.

(*b*) 1 & 2 Will. IV. c. 38, s. 2; and 1 & 2 Vict. c. 107.

(*c*) 3 & 4 Vict. c. 60, s. 15.

657. The Church Rate Abolition Act contains a provision that in cases where money had been borrowed on the security of church rates and was still owing, the making and enforcing payment of church rates for the purpose of repayment should temporarily continue (*d*). But in all other cases compulsory rates ceased from the date of the passing of the act (31 July, 1868), and the burthen of repairs was left to rest solely on the pew rents and endowment fund. The act consequently operates to an extension of the time during which pew rents may be levied.

658. The trustees or wardens may sell vaults for burial under the church or chapel, or in the adjoining ground, and invest the proceeds as a fund to supply deficiencies, if the amount produced by the rents be insufficient (*e*).

659. When a permanent provision in land or money, in lieu of pew rents, to the satisfaction of the commissioners and bishop, is secured, and the pew rents have not been assigned or appropriated under any local act, the commissioners may, with consent of the bishop, by an instrument under their and his seals respectively, order that such rents shall thereupon cease, either wholly or in part (save as regards arrears); and the seats so exempted from rent shall be at the disposal of the churchwardens in like manner as the seats in an ancient parish church (*f*).

660. In the case of churches built under the Acts of 1843 and 1844, to which the power of charging rents was extended by the Act of 1856, a similar provision is made, that upon a permanent endowment being provided, the commissioners may, with consent of the bishop, by an instrument under their seal, make an equivalent reduction in the total amount of the pew rents, either by a general

a. GENERAL ACTS.

Since abolition of church rates, pew rents must bear re-pairs in pairs.

Vaults sold in aid of funds.

On sufficient permanent endowment, rents to cease.

In new parishes either rents reduced or part entirely freed.

(*d*) 31 & 32 Vict. c. 109.
 (*e*) 5 Geo. IV. c. 103, s. 15.
 (*f*) 14 & 15 Vict. c. 97, s. 1.

a. GENERAL
ACTS.

reduction of rate, or by freeing certain specific pews: provided that no loan obtained on the security of the rents remains unpaid (*h*).

But instrument
may be
rescinded.

661. With like consent the commissioners may rescind the whole or part of the provisions of any such instrument, but only with consent of the incumbent during his life, if it affect his emolument (*i*).

When endow-
ment obtained,
pew rents to
cease wholly or
in part.

662. When any body or person endows with a provision of land or money, in lieu of pew rents, to the satisfaction of the commissioners and bishop, any church for which pew rents had been previously fixed by the commissioners, and the rents had not been assigned or appropriated under any local act, the commissioners may, with consent of the bishop, order that such rents shall cease either wholly or in part; and the seats exempted from rent shall be at the disposal of the churchwardens as in an ancient parish church (*k*).

Under Act of
1824 pew-
holders elect
trustees, who
have patronage
of church.

663. Under the Act of 1824, where the existing church accommodation in any parish, chapelry, township or extra-parochial place is insufficient for one-fourth of the inhabitants, persons may subscribe to build or buy a church or chapel, to continue under the management of trustees elected by such pew-holders as have subscribed at least 50*l.*; and the trustees have the nomination of a clergyman for the next two turns, or any number during forty years (*l*).

Proposal for
building to
state propor-
tion of free
seats.

664. The preliminary proposal must state the number or proportion of free seats, when part of the funds is advanced by the commissioners, and offer out of the rents of the other seats to provide a competent salary for the

(*h*) 19 & 20 Vict. c. 104, s. 7.

(*i*) Ibid. s. 8.

(*k*) 14 & 15 Vict. c. 97, s. 1.

(*l*) 5 Geo. IV. c. 103, ss. 5, 6, 7, 12.

clergyman, and for expenses of service and maintenance of the building (*m*).

665. The Act of 1831 requires (amongst other things) that the bishop should be supplied with a certificate, signed by an architect or surveyor and attested by two respectable householders in the parish, to the effect that the existing churches and chapels do not afford by actual admeasurement accommodation for more than one-third of the inhabitants (*n*).

a. GENERAL ACTS.

Persons building a church to produce certificate of insufficient accommodation.

666. But if the person or persons who build the church also endow it, to the satisfaction of the commissioners, with lands or monies exclusively or in addition to the pew rents or other profits arising therefrom, the commissioners may declare the right of nominating the minister to be for ever in such person or persons and their heirs, assigns and appointees (*o*). But the patronage shall not be vested in more than five trustees, unless the commissioners have, previous to 15th October, 1831, sanctioned a larger number of trustees, or such patronage shall pass by descent to coparceners, or by gavelkind or otherwise (*p*).

Unless they endow either with or without pew rents; and then they have patronage.

667. The scale of rents is to be fixed by the trustees or person who builds or endows, and approved by the bishop, and may be altered in like manner: in the yearly letting by the churchwardens a preference is to be given to parishioners (*q*).

Trustees to fix rents, subject to bishop: preference of letting to parishioners.

668. Renters of pews in a church or chapel, built under the Act of 1831, are to elect one churchwarden, whose duty, jointly with the other who is chosen by the incumbent, is to receive the rents and pay stipend, salaries and

Renters of pews (under Act of 1831) to elect one warden.

(*m*) 5 Geo. IV. c. 103, s. 10.

(*n*) 1 & 2 Will. IV. c. 38, s. 3.

(*o*) 7 & 8 Geo. IV. c. 72, s. 3.

(*p*) 1 & 2 Will. IV. c. 38, s. 5.

(*q*) Ibid. s. 4.

a. GENERAL ACTS.

Doubts as to power of retaining seats after beginning of service.

Lease determines on lessee becoming non-parishioner.

Lease determines on lessee leaving parish, or by non-user.

Rents in chapel of ease cease on its becoming district chapel.

expenses; and in default of payment of rents to sell the seats by auction or otherwise (s). It is not specified that either of the persons chosen and elected as churchwardens should be inhabitants of the parish or district.

669. Doubts have been often entertained whether, in the event of any persons, to whom seats are let, not occupying them at the beginning or at any specified part of divine service, the seats can be made available for other persons during that or the remainder of that service; but the question seems never to have been tried.

670. Where an inhabitant, having a lease of a pew or sitting in a church for a longer term than a year, ceases to be an inhabitant of the parish, or discontinues attendance at church for a year, then such lease is to determine at the expiration of the then current year, and the pew may again be let in manner above described (t).

671. In case of lease of a pew to an inhabitant of the parish, if he cease so to be, or discontinue attendance at the church for a year, his interest in the pew ceases and determines, and the pew may be let again (t).

672. A chapel vested by deed in 1840 in trustees as a chapel of ease, with permission to the vicar and churchwardens to let the pews, and for the churchwardens to apply the rents towards expenses and to pay the balance to the vicar, became, by order in council in 1860, a district chapel with right of performing marriages, &c., the fees for which were to belong to present vicar for life and afterwards to the minister of the chapel: but no mention was made in the order about pew rents. It was held that the effect of the order was to withdraw the chapel from the purposes of the trust deed, and constitute it a benefice;

(s) 1 & 2 Will. IV. c. 38, s. 16; 8 & 9 Vict. c. 70, s. 7.

(t) 3 Geo. IV. c. 72, s. 25.

and to deprive the vicar and churchwardens of all right to receive the pew rents (*u*). *Quære*, whether after the creation of a district chapelry the pews could lawfully be let at all (*x*).

673. A gradual restoration of the system of freedom of seats is contemplated in the Act of 1822, whereby it is provided that the Church Building Commissioners may, with consent of the owners, transfer all rights in any pews in an existing church, belonging to persons in the new district, to any church or chapel of such district built under the provisions of the Church Building Acts, for the purpose of increasing the number of free seats in the church from which such rights may be transferred. Every such transfer shall state under what title the pew was held, and shall suffice without any faculty or other instrument, and shall be registered in the registry of the diocese, and a duplicate deposited in the chest of the church or chapel in which such pew is so assigned (*y*). No greater right can be given in the new church than was formerly possessed in the old church.

Owners may transfer all their rights to increase free seats.

674. And greater facilities are afforded for the same object by the Act of 1869. Whenever by any public or private act of parliament, or by any deed, the sittings or any of them in any church or chapel, whether consecrated or unconsecrated, are subject to any trust as to their grant, demise, sale or disposal, or are private property for any estate whatsoever, the trustees of such church or chapel, or other the person exercising powers of grant, &c., or possessing any rights of ownership by reason thereof, or any person to whom such sittings belong, either with or without consideration, may surrender to the bishop, or

Facilities for surrender.

(*u*) *Fitzgerald v. Fitzpatrick*, *Law J. Rep.*, 33 N. S., *Chanc.* p. 673.

(*x*) *Ibid.* p. 670.

(*y*) 3 Geo. IV. c. 72, s. 23.

a. GENERAL
ACTS.

To be by deed
and registered.

And former
rights and
obligations
cease.

Sittings then
vest in bishop
till consecra-
tion of build-
ing; then be-
come as seats
in old parish
church.

Other rights
cease except
patronage.

the Ecclesiastical Commissioners, all rights of ownership, grant, demise, sale, disposal, or other right whatsoever they may have in such sittings (z).

675. Every such surrender must be by deed executed by all parties thereto, including the bishop and patron, and registered in the diocesan registry (a).

676. Upon such surrender the trusts or rights of ownership and the obligations affecting such sittings, under such act of parliament or deed, shall at once and *ipso facto* determine and be thenceforth void (b).

677. Such sittings thereupon, to the extent of the rights or powers expressed to be surrendered, become subject to the same laws as to rights and property therein as the pews and sittings of ancient parish churches are now subject to. It is provided, that if the church or chapel be not consecrated, the surrendered sittings belong absolutely to the bishop and his successors, or the commissioners, as the case may be, until the consecration of the church or chapel, from and after which the said sittings are subject to the same laws as to all rights and property therein as the pews and sittings of ancient parish churches. And the freehold of any church or chapel, consecrated or unconsecrated, may be transferred to the commissioners in like manner as the sittings and be held by them until the consecration, after which they become subject to the same laws of rights and property therein as the pews and sittings of ancient parish churches (c).

678. When there has been a complete surrender of the rights, powers, obligations and trusts affecting the sittings,

(z) New Parishes and Church Building Acts Amendment, 32 & 33 Vict. c. 94, s. 2.

(a) Ibid. s. 3.

(b) Ibid. s. 4.

(c) Ibid. ss. 5 & 6.

a. GENERAL ACTS.

or when the transfer of the church or chapel has been effected, all other rights, powers, obligations and trusts derived from the act of parliament or deed under which the church or chapel was built, absolutely cease and determine: saving that rights of patronage are not affected (*d*).

679. A person living in a parish or district formed under the Church Building Acts, who has claimed and had assigned to him sittings in the church thereof, thereby surrenders as to any right he may have possessed, an equal number of sittings in the church of the original parish or ecclesiastical district out of which such parish has been taken, unless he hold them by faculty or under act of parliament (*e*). Seats held by prescription are not referred to; and it may, therefore, be doubted whether they would not be absolutely abandoned.

Seats in old church are abandoned on accepting allotment in district church where resident.

Prescriptive rights.

680. An incumbent entitled to pew rents may thereby be entitled to the franchise (*f*). The freehold interest in the church appears to be the real qualification, and the only importance of pew rents is to make the value sufficient; because if the incumbent has a bare freehold in the church, with no power to make any profit out of it, that does not qualify. The fees on marriages, &c. do not afford the money qualification (*g*). The best description in a claim of the kind would seem to be "freehold church with right to pew rents" (*h*).

Pew rents may confer franchise upon incumbent.

(*d*) New Parishes and Ch. Bg. Acts Amend., 32 & 33 Vict. c. 94, s. 7.

(*e*) 19 & 20 Vict. c. 104, s. 5.

(*f*) 15 *Solicitor's Journal*, p. 893 (21 Oct. 1871).

(*g*) Kirton v. Dear, 18 *Weekly Rep.* p. 144.

(*h*) 15 *Solicitor's Journal*, p. 893.

PART D.

CHURCHES BUILT UNDER ACTS OF PARLIAMENT.

DIVISION b.

b. PRIVATE ACTS.

Private acts are exceptions to general law.

PRIVATE ACTS.

681. As private acts are in their nature exceptions to the general law of the land, and each case to which they refer is necessarily governed by its own special provisions, very few points affecting more than an individual locality can be stated or laid down.

Under a local act rector not necessarily entitled to pew.

682. It was, however, decided that where under a local act of parliament (*a*) the vestrymen were empowered to let all the pews in a church, “except the pews or seats to be appropriated for the gratuitous accommodation of the poor,” the court had no power to engraft another exception, and the vestrymen, consequently, had power to remove the rector from one of two pews of which he had been in possession from the time of his induction, and to let them to another inhabitant householder (*b*).

Though by unwise act of vestry.

683. Under such circumstances it is not wise, just, expedient, or proper, on the part of the vestry, for the sake of a paltry saving of a few pounds, to deprive the rector of his pew, or to exact rent for it. And, although the Ecclesiastical Court decided against the rector, because it was bound by the act of parliament, it refused to condemn him in costs (*c*). Such an act of parliament directly overturns

(*a*) 51 Geo. III. c. 151, ss. 51, 52.

(*b*) *Spry v. Flood*, 2 *Curt.* p. 365.

(*c*) *Ibid.* p. 397.

all the common law upon the subject, for it at once subverts the authority of the churchwardens, the ancient officers of the church, and confers it upon the vestrymen, who by the old law had no authority at all (*d*).

b. PRIVATE
ACTS.

688. Where the act empowered trustees for pulling down and rebuilding the church of a chapelry, to sell and dispose of the fee simple and inheritance of the pews or seats to any of the inhabitants or residents within the chapelry, with power of sale to any other inhabitants, but with provision that on the death of the purchaser and in default of so descending to revert to the trustees; and the form of conveyance annexed to the statute granted the pew to the purchaser, his heirs and assigns for ever: the Court of Common Pleas held, that it was not the intention of the act to take the freehold from the rector and vest it in the trustees; the purchaser only acquired a right of user; and, therefore, did not acquire a vote for the county by reason that the pew was worth 40*s.* per annum (*e*).

Pews sold under an act, but limited to descend to inhabitants, give no vote for county.

689. In another case of a church built under private acts, whereby trustees were empowered "to let or sell, and transfer and convey, for the purpose only of attending divine service," and where it was declared that the fee simple and inheritance should be vested in the subscribers, or the proprietors for the time being of the pews, their heirs and assigns for ever: the Court of Common Pleas held that by common law the freehold was generally in the parson, and the right of the inhabitants was limited to use during the services of the church, and at times when open for use, and subject to the regulations of the church; and the act did not vest the freehold in the purchaser. The right was not an interest in the land, but more in the

Pews sold under an act vesting the fee simple in the proprietor does not give a vote for county.

(*d*) *Spry v. Flood*, 2 *Curt.* p. 365.

(*e*) *Hinde v. Chorlton*, 15 *Law Times*, p. 472 (1867).

**D. PRIVATE
ACTS.**

nature of an easement, although this act attached rights of perpetuity of succession. Consequently, though of 5*l.* annual value, such pew was not a freehold estate entitling the owner to a vote for the county (*f*).

Same rule applies to public act for local purpose.

690. And this was immediately followed by a case of a church rebuilt under a public act for building East Stonehouse Chapel, whereby the pews were to be appropriated by the trustees to the subscribers, and then to become vested in such proprietors, their heirs and assigns for ever. The same court decided, in accordance with the last-mentioned case, that there was not a freehold interest entitling the proprietor of a pew to a vote for the county (*g*).

Facilities for surrender.

691. Whenever by any public or private act of parliament, or by any deed, the sittings, or any of them, in any church or chapel, whether consecrated or unconsecrated, are subject to any trust as to their grant, demise, sale or disposal, or are private property for any estate whatsoever, the trustees of such church or chapel, or other person exercising powers of grant, &c., or possessing any rights of ownership by reason thereof, or any person to whom such sittings belong, either with or without consideration, may surrender to the bishop, or the Ecclesiastical Commissioners, all rights of ownership, grant, demise, sale, disposal or other right whatsoever they may have in such sittings (*h*).

692. The other provisions of the act touching this point are already given in DIVISION A relating to the general Church Building Acts, to which they equally apply.

(*f*) Brumfitt v. Roberts & ors., *L. R.*, 5 Com. Pl. p. 233 (1870).

(*g*) Greenway v. Hockin, *L. R.*, 5 Com. Pl. p. 235 (1870).

(*h*) New Parishes Acts Amendment, 32 & 33 Vict. c. 94, s. 2.

LIST OF CASES.

ABBREVIATIONS.

Adm. & Eccles.	indicates Admiralty & Ecclesiastical.	Eq.	indicates Equity.
C. B.	indicates Common Bench.	Exch.	Exchequer.
C. P.	Common Pleas.	K. B.	King's Bench.
Chanc.	Chancery.	N. P.	Nisi Prius.
Cons.	Consistory.	P. C.	Privy Council.
Eccles.	Ecclesiastical.	Q. B.	Queen's Bench.
		V. C.	Vice Chancellor.

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